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Supreme Court, U.S.
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In the Supreme Court of the United States

December Term 2000

C. DELORES TUCKER and WILLIAM TUCKER,
her husband,

Petitioners

vs.

MTS, INC. t/a TOWER RECORDS; INTERSCOPE, INC.; INTERSCOPE RECORDS; TED FIELD; TIME WARNER; JAMES IOVINE; SEAGRAM CO.; MCA INC.; DEATH ROW RECORDS, INC.; DAVID KENNER; RICHARD FISCHBEIN as co-administrator and AFENI SHAKUR as co-administratrix of the ESTATE OF TUPAC SHAKUR,

Respondents

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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STATEMENT OF THE QUESTIONS PRESENTED FOR REVIEW

I. Is it reversible error to summarily dismiss a defamation case that involved statements disseminated to millions and intended to harm Plaintiff's reputation for morality and integrity, and adversely affect her hard earned status as a known and respected public figure within the community?

II. Is it reversible error to apply the Single Publication Rule in a case where the gravamen is not clearly defamation?

III. Does the Single Publication Rule apply to CD's?

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Petition

IN THE SUPREME COURT OF THE UNITED STATES

C. DELORES TUCKER and WILLIAM TUCKER,
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v.

MTS, INC. t/a TOWER RECORDS; INTERSCOPE, INC. ;
INTERSCOPE RECORDS; TED FIELD;
TIME WARNER; JAMES IOVINE; SEAGRAM CO. ; MCA
INC. ; DEATH ROW RECORDS, INC. ;
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and AFENI SHAKUR as co-administratrix of the ESTATE OF
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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

To the Honorable, the Chief Justice and the Associate Justices of the Supreme Court of the United States

REFERENCE TO THE OPINIONS DELIVERED IN THE COURTS BELOW

Reference is made to the September 1, 2000, Order of the United States Court of Appeals for the Third Circuit denying the petition for rehearing *en banc* (App. 1a) and the Third Circuit's Opinion (App. 3a) and Order (App. 10a) of July 17, 2000, addressing the substantive issues. Reference is further made to the Orders and Opinions of the United States District Court for the Eastern District of Pennsylvania: (1) granting summary judgment to the Estate of Tupac Shakur dated January 29, 1999 (App. 12a—opinion, 25a—order); and (2) denying motion for transfer of Defendants Interscope Records, Interscope Inc., Ted Field, James Iovine, MCA Inc., Seagram Co., Time Warner, Death Row Records, and David Kenner (collectively the "California Defendants"), granting the California Defendants' motion to dismiss, granting Defendant Tower's motion to dismiss, denying motion to dismiss of Defendants Richard Fischbein, co-administrator of the Estate of Tupac Shakur and Afeni Shakur, co-administratrix of the Estate of Tupac Shakur's (collectively the "Estate Representatives"), and dismissing the California Defendants' 12 (b) (2) motion as moot, dated February 18, 1998 (App. 26a – opinion, 35a—order).

STATEMENT OF JURISDICTION

The judgment of the United States Court of Appeals for the Third Circuit denying the Petition for Rehearing *En Banc* by C. DeLores Tucker and William Tucker, her husband, was entered on September 1, 2000. Jurisdiction in this Court is invoked under 28 U.S.C. §1254(1).

STATUTORY PROVISIONS INVOLVED

This diversity defamation case arises under theories of the common law. The relevant Pennsylvania state statutes in this case are 42 Pennsylvania Consolidated Statutes Annotated §§5523(1) concerning a one year statute of limitations for actions of libel, slander, or invasion of privacy, 5524(7) concerning a two year statute of limitations for actions to recover damages as the result of tortious conduct, and 8341(b) "Uniform Single Publication Act." The relevant Federal statutes in this case include 28 United States Code §§1291 and 1332 concerning final decisions of district courts and the requirements for diversity of citizenship jurisdiction. The relevant Federal Rules in this case include Federal Rule of Civil Procedure 56(c), concerning a motion for summary judgment.

STATEMENT OF THE CASE

On July 21, 1997, C. DeLores Tucker, Chair of the non-profit National Political Congress of Black Women, Inc., former Secretary of the State of the Commonwealth of Pennsylvania, and former Chair of the Democratic National Committee Black Caucus and National Board of the NAACP, and her husband filed a civil diversity lawsuit in the Eastern District of Pennsylvania against *twelve Defendants, including the Estate of Tupac Shakur*. (App. 37a)

The lawsuit was *particularly* targeted at gangsta rap *marketers* Interscope and Death Row, and their principals for their two years of SLAPP lawsuits, a Death Row elimination ad which appeared in a rap magazine, years of smut investigations, eleven days of depositions, *and* Shakur's All Eyez On Me's profane and defamatory lyrics accusing Mrs. Tucker of being a mother f—er and a traitor to her people.

The Death Row elimination ad in a gangsta rap publication disseminated to thousands of potentially violent readers is particularly frightening because, in a list of famous African Americans, a line is drawn through Mrs. Tucker's name.

MARTIN LUTHER KING, JR.
NELSON MANDELA
MALCOLM X
MARY McCLOUD BETHUNE
FREDERICK DOUGLASS
DOROTHY HEIGHT
MARCUS GARVEY
HUEY P. NEWTON
DRED SCOTT
HARRIET TUBMAN
SOJOURNER TRUTH
ANGELA DAVIS
~~C. Delores TUCKER~~

(App. 54a)

Plaintiffs contended in the original Tucker I Complaint that, in *various* ways *including* the SLAPP lawsuits, the Death Row elimination ad, the smut investigations, eleven days of depositions, and Shakur's profane and defamatory lyrics, Mrs. Tucker sustained damages, including severe emotional distress (PAR 43), being held up as an object of scorn to more than 5,000,000 people [5,000,000 discs were sold], including children of Philadelphia and elsewhere (PAR 44), defamation of character and reputation (PARS 45, 46), past and future medical expenses, mental pain and suffering, inconvenience and loss of life's pleasures, fears for her life, loss of personal freedom to travel freely when and where she desires (PARS 47, 48), and great humiliation and embarrassment (PAR 49).

There was a boilerplate consortium count for Mr. Tucker:

> 50. Plaintiff's *husband*, William Tucker has as a result of his wife's injuries, suffered a loss of advice, companionship and consortium. (emphasis supplied)

On July 31, 1997, the Tuckers issued a News Release (App. 55a).[1] The Tucker News Release emphasized that the main focus of the Plaintiffs' July 21, 1997, Complaint was on the *"Gangstas in the Suites."*

> Dr. C. DeLores Tucker Files $ Multi-Million Suit *Against Record Producers* of Gangsta Rap Filth. (emphasis supplied)

The News Release acknowledged that Mrs. Tucker had received death threats and that she was not unmindful of the risk to her life in her filing of the Tucker I action. The News Release echoed the Complaint's allegations of hours of depositions, surveillance and intimidation, emotional stress, death threats, reasonable fear for her life, and inability to travel freely without fear. Again, no mention of sex. Finally, the News Release stressed that if she should win the suit:

---

[1] Discovery in this case was combined with *Tucker v. Time, Inc., et al.*, No. 97-CV-6150, another case where the Eastern District also granted summary judgment and is currently under Third Circuit review.

> I will use the money to help create a healthy and vigorous climate in which our rap, hip hop and other artists can flourish and grow in healthy, productive ways and not be enslaved to this greed-driven, race driven, porno driven, grossly sexist lyrical filth that particularly defames Black women, promotes drug use, violence and panders pornography to our children.

As a result of the Tuckers' News Release, various newspapers contacted Defendant co-administrator Attorney Fischbein, whose law firm represented the Shakur Estate. Mr. Fischbein was quoted in the *Los Angeles Times*, August 1, 1997: "[I]t's hard for me to conceive how these lyrics could destroy her sex life [b]ut we can only wait for the proof to be revealed in court" (App. 59a).

Mrs. Tucker was hospitalized at the time of the News Release. Mr. Tucker, in recorded interviews, asserted that the media was distorting their Complaint against the gangsta record companies by focusing on sex. *See*, August 5, 1997, *The Philadelphia Tribune* article: "Tucker: Media Distorts Lawsuit" (App. 61a). *Also see*, *Philadelphia Daily News*, August 6, 1997 (App. 62a). *Also*, the August 11, 1997, "Music News of the World" article (App. 64a).

From the beginning, Plaintiffs' counsel unsuccessfully attempted to persuade the press that the Tucker Complaint had nothing to do with sex. *See*, *Philadelphia Daily News* article, August 2, 1997 (App. 139a-141a). *Also see*, deposition of Richard C. Angino, pp. 119-139 (App. 69a-89a).

> But I can assure you, there were, at least, I would say, somewhere between six and ten or 12 conversations, as best I can guess it, during this time period. The ones that I have a record of because we called out, and I may have gotten other calls where they called in, you know, and I don't have a record of.

Plaintiffs' counsel made it clear *in his conversations with the press* that *the word "consortium" does not equate with sex.*

> *Media Has*
>
> *C. DeLores Tuckered*
>
> After filing a $10 million defamation lawsuit against Time Warner Records and the estate of murdered rap artist *Tupac Shakur*, anti-rap crusader *C. DeLores Tucker is now complaining that the media is out to distort the facts of the lawsuit.* Claiming that clever rhymes in Shakur's *"All Eyez on Me"* release such as "Delores Tucker, you're a mother_____" caused her "great humiliation, mental pain and suffering," Tucker included her husband, William, in the suit, claiming that he had suffered *"a loss of advice, companionship and consortium."* Although the *Inquirer* didn't even cover the filing of the suit, the *Daily News* trumpeted on its August 2 front page, *"C. DeLores Tucker Claims CD Gave Her A Dirty Rap: Suit vs. Shakur estate says "vile" lyrics ruined her rep and her sex life."* Daily News Managing Editor *Brian Toolan* defends the paper's treatment of the story, saying "it's generally understood that's what loss of consortium is supposed to mean in the law." *But Tucker's attorney, Richard C. Angino disputes this, stating that the phrase [loss of consortium] is a standard addition to lawsuits of this type and refers to all aspects of the marital relationship, not necessarily sex. "This is why people sometimes get so upset with the media," says Angino. One disinterested personal injury attorney who wished not to be named agrees with Angino*

Philadelphia Weekly, August 13, 1997 (App. 90a-91a). (Emphasis supplied and in original).

Mrs. Tucker issued a second News Release on August 21, 1997, (App. 92a) stating to the media at large that the media were mischaracterizing the Tucker I Complaint:

> *All* the media *gleefully jumped on the so-called sex part* in the suit that called attention *to loss of consortium, which was put in there by my husband, Bill, not by me*, she added, obviously nettled. (emphasis supplied) (App. 92a)

Despite Plaintiffs' and their attorney's protestations to the contrary and the absence of the word sex in any of Mrs. Tucker's claims, Newsweek published "Grabbing at a Dead Star":

> *She* [Mrs. Tucker] and *her* husband claim that a lyrical attack by Tupac iced *their* sex life.
>
> • • •
>
> Among other things, *she* [Mrs. Tucker] asserts that she feared for her life, had been humiliated *and can no longer have sex with her husband*. (emphasis supplied) (App. 94a)

The Newsweek article treated Mr. and Mrs. Tucker as pirates trying to loot the Tupac Estate and sex pots attempting to claim $10 million for sex lives that had been allegedly destroyed by Shakur's lewd lyrics.

On August 27, 1997, Plaintiff's counsel mailed to Court and counsel an Amended Complaint in the instant action [Tucker I] (App. 100a-116a) which *specifically stated that Mr. Fischbein, co-administrator for the Shakur Estate*, "has continued to defame and harass plaintiff by holding her up in a false light" and by making "false and misleading statements regarding the claim herein."

> 45. Defendant Co-administrator of the Estate of Tupac Shakur [Fischbein] has continued to defame and harass plaintiff by holding her up in a false light even after the complaint in this matter was filed on June [July] 21, 1997.
>
> 46. Defendant Fischbein made false and misleading statements regarding the claim herein, through published statements that C. Delores Tucker filed suit because of a "loss of her sex life." *This statement was untrue, and Defendant Attorney Fischbein should have known it was untrue*. (emphasis supplied) (App. 107a-108a)

Mr. Fischbein continued to defame Mrs. Tucker even after being served with the August 27, 1997, Amended Complaint. He talked to a Time reporter, and Time published "Shakur Booty" (App. 117a) on September 22, 1997. Time's "Shakur Booty" article refers to the Tucker lawsuit as "the most bizarre suit" of five suits against Tupac Shakur's estate.

On October 1, 1997, Plaintiffs filed a Second Amended Complaint (App. 118a) in the instant action and a new Complaint against Time, Newsweek, and Fischbein individually (*Tucker II*) (App. 145a).

REASONS FOR ALLOWANCE OF THE WRIT

I. The Trial Court Erred In Granting The Motions To Dismiss Of All Defendants Except For The Estate Of Tupac Shakur

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On February 18, 1998, the trial judge issued a Memorandum and Order dismissing all Defendants but the Tupac Shakur Estate (App. 26a). The basis for the Court's 12(b)(6) dismissal was the statute of limitations. The trial court held that Plaintiffs' three causes of action — intentional infliction of emotional distress, slander, and invasion of privacy — were all time barred because of the one-year statute of limitations for slander and invasion of privacy. 42 Pa.C.S.A. §5523(1) §5524(7) (1981 and Supp. 1997), pp. 5, 6. The trial judge found that the "gravamen" of the Tuckers' intentional infliction of emotional distress was Shakur's allegedly defamatory lyrics, and, therefore, was controlled by the one-year defamation and privacy limitations period. Presumably any other actions that could be brought, *e.g.*, abuse and misuse of process, were also subject to the same ruling.

The gravamen of the Tuckers' Complaint, Amended Complaint, and Second Amended Complaint was *not* Shakur's defamatory lyrics but rather a course of conduct—SLAPP suits, elimination ads, defamatory lyrics, 11 days of depositions, smut investigations, threats, post complaint spin, etc.—designed to inflict emotional distress on Mrs. Tucker in an effort to stop her effective gangsta rap protests in America. It is the serial variety of the acts, the very antithesis of duplication, about which Plaintiffs complain; therefore, Plaintiffs' action was timely filed well within the two-year statute of limitation which must be applied under the non-defamation torts.

There is a second reason why the trial court erred in dismissing all of the Defendants other than the Shakur Estate on the basis of the one year defamation statute of limitations. The trial court held that the recording and marketing of CD's fall within the Uniform Single Publication Act, 42 Pa.Cons.Stat.Ann. § 8341(b):

> No person shall have more than one cause of action for damages for libel or slander, or invasion of privacy, or any other tort founded upon any single publication, or exhibition, or utterance, such as any one edition of a newspaper, or book, or magazine, or any one presentation to an audience, or any one broadcast over radio or television, or any one exhibition of a motion picture. Recovery in any action shall include all damages for any such tort suffered by the plaintiff in all jurisdictions.

Bradford v. American Media Operations, Inc., 882 F.Supp. 1508 (E.D.Pa. 1995).

It should be noted that records, tapes, and CD's are not mentioned in the Uniform Act. The Uniform Single Publication Act has not been amended to include records, tapes, or CD's. Plaintiffs' counsel has been unable to find a single case anywhere in the country where a court held that it was the intention of its legislature to include records, tapes, and CD's within the Uniform Single Publication Act.

Furthermore, the Uniform Single Publication Act was intended to apply to publications such as newspapers and magazines rather than musical recordings that potentially may not even be marketed nationally or in a particular state or jurisdiction until relevant statutes of limitations have expired.

It is common for recordings of new artists to be first sold in the artist's locale, and, as the sales increase, to market regionally and eventually nationally. Discs are rerecorded, sometimes changes are made, box sets created, etc. Sometimes a particular retail outlet might not receive or sell a disc until a year or more has passed from the time of the local or regional sales.

Tower Records was still selling and other Defendants were still profiting from "All Eyez On Me" when Plaintiffs' Complaints were filed and probably still are profiting from the recording. This does not occur with a daily newspaper or weekly or monthly magazine.

Plaintiffs' Amended Complaint and Second Amended Complaint sought a Preliminary Injunction to stop the continued selling of the pornographic smut to children.

The Uniform Single Publication Act was discussed in *Bradford v. American Media Operations, Inc.*, 882 F.Supp. 1508 (E.D.Pa. 1995). The Court's attention is directed to the following additional cases which provide history and conflicting considerations that must be addressed in interpreting legislative intent with respect to the Uniform Single Publication Act. *Graham v. Today's Spirit*, 503 Pa. 52, 468 A.2d 454 (1983); *Dominiak v. National Enquirer*, 439 Pa. 222, 266 A.2d 626 (1970); *Gaetano v. Sharon Herald Co.*, 426 Pa. 179, 231 A.2d 753 (1967); *Andrews v. Time, Inc.*, 690 F.Supp. 362 (E.D.Pa. 1988); *Wathan v. Equitable Life Assurance Society of the U.S.*, 636 F.Supp. 1530 (C.D.Ill. 1986); *Holloway v. Butler*, 662 S.W.2d 688 (Tex.App. 14th Dist. 1983); *Wildmon v. Hustler Magazine, Inc.*, 508 F.Supp. 87 (N.D.Miss. 1980); *Gregoire v. G.P. Putnam's Sons*, 298 N.Y. 119, 81 N.E.2d 45 (1948).

Plaintiffs' action, therefore, was timely filed, and the court was in error in dismissing all of the Defendants other than the Tupac Shakur Estate on the basis of the statute of limitations.

II. The Trial Court Erred In Granting The Motion For Summary Judgment Of The Estate Of Tupac Shakur

A. The Trial Court and the Third Circuit erred in failing to consider all of the allegations (circumstances) of the *Tucker I* Complaint, Amended Complaint and Second Amended Complaint in granting summary judgment.

1. The defamatory recordings: "All Eyez On Me," "How Do U Want It," and "Wonda Why They Call U Bitch"

The CD "All Eyez On Me", which included two recordings "How Do U Want It" and "Wonda Why They Call U Bitch", was released in February, 1996. Stipulation, pp. 14, 15, Mrs. Tucker's Deposition (App. 162a-163a).

Plaintiffs' counsel was engaged in the spring of 1997 to represent the Tuckers with respect to SLAPP lawsuits in California. During the course of that representation, Plaintiffs' counsel worked with an associate, James DeCinti, and a law clerk, James Schultz. The referring attorney and close personal friend of the Tuckers, Paul Waters, stated there was a CD that defamed the Tuckers. Mr. Waters and his son-in-law, Wayne Fleming, indicated the defamatory nature of the Shakur lyrics. Plaintiffs' counsel was supplied with an article wherein Mrs. Tucker was interviewed with respect to the defamatory lyrics.

Plaintiffs' counsel did not personally listen to the CD, did not have a copy of the actual lyrics, but rather relied upon the published interview of Mrs. Tucker and the understanding of others as to the allegations in the Tucker I Complaint, the Amended Complaint and the Second Amended Complaint. The publication relied upon appears in the appendix at App. 186a.

The actual lyrics were supplied later by the Defendant and included in the trial court's opinion (App. 15a-19a). Plaintiffs' counsel admits that upon close examination the Complaint allegations are not totally accurate. Plaintiffs' counsel assumes in his argument that the written lyrics control.

2. The speaker—Tupac Shakur; the Estate's Representative—Richard Fischbein and his law firm

It is an undisputed fact that for a number of years prior to his death "Tupac Shakur was one of the most popular 'gangsta rap' artists in the world."

Tupac's CD's sold millions. He was in movies. His millions of young fans worshipped him as a god. Tupac was the principal star who made his employer, Death Row, a $150 million per year rap company. All of the other Defendants, particularly Interscope, Inc.

and Interscope Records and its principals, Ted Field and James Iovine, and Time profited from Shakur's recordings which take pride in their emphasis on sex, drugs and "gangsta" violent behavior.

Tupac and the CEO of Death Row, Suge Knight, reveled in their criminal records. Shakur/Death Row/Interscope recordings are full of words, expressions, and lyrics that glorify drug use, physical violence, guns, rape, and killing, particularly of police and women.

These are undisputed facts that can be judicially noticed from the recordings themselves, the CD jackets, admissions and textual content of hundreds of articles and books dealing with Tupac, Death Row, and the gangsta rap industry.

The words of this "god" on a disc that sold 5,000,000 copies are not the same as someone calling someone else a Motherf—— in a barroom. Referring to Mrs. Tucker as a traitor to her people is not slander-free opinion. Richard Fischbein is the Shakur Estate's co-administrator and continues to defame the Tuckers after the Tucker I Complaint and Second Amended Complaints were filed. His purpose is obvious.

3. The subject—C. DeLores Tucker

Mrs. Tucker is seventy years of age, married for 47 years to Mr. Tucker. Her life awards, honors, and actions are well known which appear in her biography at App. 185a.

Mrs. Tucker has spent her lifetime fighting injustice and social ills, including the civil rights movements, first for African Americans and then women and minorities. Mrs. Tucker has been on an anti-gangsta rap crusade since 1993. Her friends and allies include Mrs. Gore, Senator Lieberman, and Mr. Bennett, and her crusade is a major issue in the current presidential debates.

4. The defamatory character of the communication

There is no question that despite the text of "Wonda Why They Call U B" it was interpreted by a journalist as applying to Mrs. Tucker with respect to keeping "your head up, and your legs closed" and reported by the Philadelphia Daily News on March 1, 1996:

> Shakur: From "Wonda Why They Call B" —— "Keep your head up and your legs closed Dear Ms. Delores Tucker." Then follows a section in which Shakur tells why women are called b——s and he adds, "It ain't personal, it's business." (App. 186a)

Mrs. Tucker is also referred to as a "Mfer," a traitor to her people.

> Shakur: From "How Do You Want It" – "C. DeLores Tucker, you're a m——f——, instead of trying to help a brother you destroy a n—a."

The word "motherfucker" is the ultimate insult that can be directed to someone among the *intended* audience. The individuals reading the Philadelphia Daily News probably empathized with Mrs. Tucker, but to the more than 5,000,000 children whom Mrs. Tucker is trying to help, Mrs. Tucker has been defamed.

Mrs. Tucker was referred to as someone who "instead of trying to help a nigga you destroy a brotha, worst than the others, Bill Clinton, Mr. Bob Dole "

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5. Intended audience

There is no question that the intended audience was the impressionable youth who purchased the bulk of the 5,000,000 copies of "All Eyez On Me" which were sold. Plaintiffs' counsel and the Tuckers have to this day refused to listen to the lyrics. The general public received the journalist's interpretation in the Philadelphia Daily News on March 1, 1996.

A five million strong audience of impressionable youths who revel in drugs, guns, anti-female feelings, rape, and killing have been told by their "god" that Mrs. Tucker is a "Mfer," a traitor to her people, someone who is "stressen" their leader. This is equivalent to shouting fire in a crowded theater. It certainly did not put Mrs. Tucker in a favorable light and a jury could find her status lessened in the eyes of the 5,000,000 children whom Mrs. Tucker loves and, in her profession, is trying to help.

6. The effect of the Shakur lyrics on the intended audience

Mrs. Tucker, in her Complaint and in her deposition, has stated that she was ridiculed, laughed at, threatened, humiliated, and feared for her life as a result of the Shakur lyrics.

> THE WITNESS: — what I told him [Mr. Tucker] was that we had to stop this. We had to stop this kind of music. It certainly embarrassed me. It was – I was ridiculed. I was laughed at and all of this kind of thing, that children were saying look at C. DeLores Tucker, she's an Mfer, and saying a lot of nasty things about me.

(App. 165a)

> THE WITNESS: Upset is not the word. Upset is not the word. I am a strong devout christian. My father, his brothers, my mother, strong people of faith. I was raised that way. Never cursed in my life. I don't drink, I don't smoke. I try to live a good christian life, and to be called an Mfer and children looking at me and calling me that, look at her. I can't describe how it makes me feel.

(App. 167a-168a)

> THE WITNESS: It made me angry that I'm ready to die to stop this kind of music from being disseminated to our children. I'm ready to die for it.
>
> A. That's how angry I am.

(App. 168a)

> THE WITNESS: A song that was sold, yes, to five million plus and around the world, yes, to be known as that, a whore, yes.

(App. 168a-169a)

Mrs. Tucker testified that she had been involved in the anti-gangsta rap crusade since September of 1993 (App. 169a). She has experienced stress and anger dealing with the record companies (App. 169a-170a).

In response to questions as to why she did not sue newspapers for publishing false material about her activities as Secretary of the Commonwealth or as a partner in real estate operations with her husband, Mrs. Tucker said:

> A. Why? Because I didn't walk around the streets and have children pointing at me and say there's C. DeLores Tucker, an Mfer, there's C. DeLores Tucker that needs to keep her legs closed. They didn't ridicule me and send that message all around the world by gangstas in the suites I call them.
>
> • • •
>
> THE WITNESS: — that's why. I have never been so ridiculed. That case here in Harrisburg took place in this State, and the children weren't looking at me and ridiculing me and laughing at me, and me having to fear for my life. That suit, I didn't have to look to see if a car is coming by with dark windows that might shoot at me. I didn't have to turn around when I walked in my building and see if somebody is following me. I didn't have the Palladino Boys [detective agency hired by Interscope and Death Row lawyers] coming after me and going around to my neighbors, going around to my staff; sitting in front of their homes. I didn't have them going to my Jewish organizations, and they throwing them out. I didn't have them going to the Congress trying to find something about me. I didn't have them walking around the streets going to all the bars trying to find out whether my husband had a girlfriend. I didn't have death threats on me. That's the reason I filed this suit, to stop it.

• • •

> A. No. My life was threatened. And they are teaching our children to even kill me, telling – telling the gangsta rappers that I had the FBI files in the suite that Suge Knight asked to meet me in. And I called Janet Reno and said you better find out how you got your FBI files, because that was to tell those kids to kill me.

• • •

> A. — if you have to walk around and wonder if somebody is going to shoot you, when that's the culture of these gangstas in the suites.

(App. 171a-174a)

Mrs. Tucker has obviously been further humiliated, damaged, and affected with respect to her business life as a result of the sexual spin of the original Complaint by Fischbein, the co-administrator of the Shakur Estate. This is an *additional separate* defamation for which the Estate is liable. The intended audience as to the sexual spin is the adult group upon which Mrs. Tucker must rely to advance her campaign. She was similarly ridiculed by that group for seeking $10 million allegedly because lewd lyrics destroyed her sex life.

---

7. Physical and emotional consequences

Mrs. Tucker testified that she had been diagnosed and treated with respect to stress-related ailments (App. 175a). Mrs. Tucker was hospitalized from July 29, 1997, through August 4, 1997 (App. 175a):

> A. Well, I didn't really know, as I said, how much stress I really had. I had fear and all of that –

(App. 175a).

> Q. And that hospital visit was due to stress that you were experiencing as a result of your dealings with the record companies and the lyrics that Tupac Shakur had published; is that correct?

• • •

> THE WITNESS: I don't know what it was related to, to be very honest with you, because it was an accumulation of a lot of things going on.

(App. 176a).

The record of Mrs. Tucker's medical visit of July 9, 1997, with her family doctor, Harold Mignott, was offered as an exhibit in Mrs. Tucker's deposition:

> "Presents for followup and main issues are tremendous amount of stress she is under lately."

(App. 177a).

> Were you aware when you visited Dr. Mignott on this date that your husband had alerted Dr. Mignott to the fact that you were very stressed and currently in a very hyper state where you had sleep disturbance, loss of weight and was generally – were generally jittery?
>
> A. Yes, I see it there. And I guess he would, because he's aware of my problem. He could notice it after all these years, my reactions to staff and other people. He could see it clearer than I could, you see. Other people are telling me, you know, that you – you're losing weight. I don't see that, but they tell me that. And they tell me I need to get rest, but I don't think I need it.

(App. 179a)

> Q. Now, let's look at the third sentence [from Dr. Mignott's report]. It says "She reports she is stressed because of current proceeding through her work and that she is harassed and somewhat fearful for her life."

(App. 180a)

As to Mrs. Tucker's condition when she was hospitalized from July 29 to August 4, 1997, Dr. Mignott's August 21, 1997, recorded note is:

> "She was also found to be very stressed and had symptoms of stress"

(App. 181a)

In response to a question as to when she first discussed filing the instant Complaint, Mrs. Tucker responded:

> A. I don't recall when, but I know as soon as I heard that Tupac named me in that scurrilous way, and people were calling me about it, I knew then I was going to file the suit. I didn't know how or when, but I was going to file it.

(App. 182a-183a)

> Q. Can you recall any conversation you had with your husband during the year and a half prior to the filing of the lawsuit?

> A. At dinner every night I talk about this. Every night.

(App. 184a)

8. The Court must consider the Shakur lyrics in the context of the original entire 66 paragraph Complaint (App. 37a), the Amended Complaint (App. 100a), and the Second Amended Complaint

Tupac Shakur's lyrics were a part of the *overall effort* to shut up Mrs. Tucker. The Shakur lyrics must be read and interpreted as part of the other actions and language of the 12 defendants, including the elimination ad. Mrs. Tucker was portrayed as such a bad person that she had to be eliminated. The smut investigations further defamed the Tuckers.

The Trial Court and the Third Circuit failed to address the elimination ad and the smut investigations or Defendant Fischbein's statements following the commencement of the action concerning Mr. Tucker's loss of consortium claim.

The fact that the instant suit was brought against Richard Fischbein only in his representative capacity still makes the Estate responsible for the words and actions of its co-administrator. Consequently, the Amended Complaint filed on September 2, 1997, and the Second Amended Complaint filed on October 1, 1997, provided a separate and independent basis for recovery against the Shakur Estate.

B. Defamation is a state law issue and summary judgment should not be granted if there are factual issues.

Courts, writers, textbooks, and annotations all state that what constitutes defamatory matter is *broadly defined*:

> Defamatory matter *may* include statements that would subject one to hatred, ridicule, obloquy, or contempt, or to statements *which would reflect negatively on one's reputation for morality, integrity, or honesty or to matter which tends to negatively affect one's financial status or standing in the community*. However, the definitional coverage of what constitutes defamatory matter *is even broader and includes* statements—like a loathsome disease and insanity—which tend to deter others from associating with the person so characterized even though it does not reflect on his or her moral integrity. *What constitutes defamatory matter is not, however, a matter of majority vote as long as a "substantial and respectable minority" of the population would think less of plaintiff even if such persons would be "wrong-thinking" in so doing*. (emphasis supplied)

Chapter 1, *The Prima Facie Case*, p. 16. Elder, Defamation: A Lawyer's Guide, Clark Boardman Callaghan (1993).

Clearly, the Shakur lyrics caused 5,000,000 listeners to think less of Mrs. Tucker and Fischbein's statements caused many other individuals and her previous supporters to think less of her. Plaintiffs, therefore, should be able to produce witnesses and other evidence to satisfy their burden of proof in this regard.

> The modern consensus rule has declined to apply the above doctrine and has measured defamatory potential by its "natural and probable effect on the mind of the average lay reader and not to the critical analysis of the legal mind." Where unambiguous, of course, the question of its defamatory potential is a matter of law for the court. *Where the matter is capable of innocent and defamatory interpretations, the matter is resolved by the jury, which determines how it was actually understood by the recipient(s).*

Elder, at pp. 17 and 18 (emphasis supplied).

The Elder quote succinctly states that the issue of what is defamatory in most cases and certainly in the instant case is not for the legal mind of the trial judge in response to a motion for summary judgment, but rather for a jury of the Tuckers' peers.

> *The common law has never been concerned with the particular form of the defamatory matter*. To be defamatory the statement need not be made in a "direct, open and positive manner," *as "[a] mere insinuation is as actionable as a positive assertion."* While the particular form used was important, and sometimes pivotal, to the now repudiated "pure opinion" doctrine (and remains relevant as to the issue of its provability as factually false after the *Milkovich* decision in matters of public concern), the common law has remained generally unconcerned with the issue of the form of the defamatory matter. *Recognizing the creative, imaginative, sometimes devious, mentality of the defamer and the potentiality of words or conduct to defame in innumerable ways, the common law has held matter to be defamatory though communicated "by innuendo, by figure of speech, by expressions of belief, by allusion or by irony or satire . [or] by words spoken in jest if not so understood." The defamatory implication may also result from the juxtaposition of truthful facts*. And the defamatory insinuation may result from the *omission of important matter*.
>
> In construing or interpreting potentially defamatory matter it is, of course, necessary to view the matter *in its context*

> *and as a whole or entirety*. Clearly, a letter is viewed as an entity and its entire contents are examined in deciphering whether a defamatory interpretation was correctly or reasonably received by recipients thereof.
>
> In sum, *all defamatory matter in written or printed form or with comparable potential for harm is deemed generally actionable per se—i.e., without proof of special damages*. Whether the libel is unambiguous on its face or requires proof of extrinsic facts (inducement) with a resultant defamatory innuendo, the matter is actionable per se. In other words, the Restatement (Second) of Torts and the majoritarian sentiment *have rejected* the spurious libel per quod doctrine with its added requirement, often an insuperable obstacle, *of proof of special damages*.

Elder, at pp. 19-23 (emphasis supplied), citing numerous cases.

Elder, in this quote, was anticipating the creative, imaginative minds of all of the Defendants which used the Shakur lyrics as a means to shut up Mrs. Tucker, and Mr. Fischbein who used the words in the original Complaint to synopsize the Tucker suit as Mrs. Tucker asserting that lewd lyrics destroyed her sex life and she wanted $10 million in damages.

The trial court states in its January 29, 1999, Memorandum:

> The law with regard to opinion becomes important in this case because it is conceded that what Tupac Shakur is saying is opinion, not fact. (*slip op.* at 10) (App. 21a)

See, Trial Court Memorandum of January 29, 1999 (App. 12a-24a). The Third Circuit similarly decided the case as merely the expression of Tupac's opinion (Slip op. at 6, App. 8a).

The trial court limited its analysis to certain specific lines from the two songs that nominally referenced Mrs. Tucker and ignored all the other lyrics in the two songs and the song's relationship to the other allegations in the complaints.

The Court is directed to *McClure v. American Family Mut. Ins. Co.*, 29 F.Supp.2d 1046 (D.Minn. 1998), referencing *Janklow v.*

Newsweek, Inc., 788 F.2d 1300 (8th Cir. 1986), *cert. denied*, 479 U.S. 883, 107 S.Ct. 272, 93 L.Ed.2d 249 (1986):

> Under *Janklow*, courts evaluate whether a statement has defamatory meaning using four factors: (1) the statement's precision and specificity; (2) the statement's verifiability; (3) the social and literary context in which the statement is made; and (4) the statement's public contextThese factors are "considered together" and "the decision whether a statement is fact or opinion must be based on all the circumstances involved."

Janklow, 788 F.2d at 1302, referenced in *McClure v. American Family Mut. Ins. Co.*, 29 F.Supp.2d 1046 at 1055.

It is Hornbook law that the allegedly defamatory statement must be reviewed in the context of the entire broadcast or recording. *Pierce v. Capitol Cities Communications, Inc.*, 576 F.2d 495, 502 (3d Cir. 1978), *cert. denied*, 438 U.S. 861, 99 S.Ct. 181, 58 L.Ed.2d 170 (1978).

"Expressions of 'opinion'" are not constitutionally protected if the listener interprets same as having a factual basis. *See*, *Moldea v. New York Times Co.*, 15 F.3d 1137 (U.S.App.D.C. 1994), and *Milkovich v. Lorain Journal*, 497 U.S. 1, 110 S.Ct. 2695, 111 L.Ed.2d 1 (1990).

The Third Circuit is in error, therefore, in upholding the summary judgment dismissal on the basis of "opinion."

C. Your Court's holdings in *Masson* and *Milkovich* require reversal.

Rap music may be considered an art form by Defendants, but it is certainly not entitled to the same First Amendment concerns as words spoken at town meetings, or criticism directed at public officials. Advocating the use of drugs, reveling in guns, rape, murder, and other forms of violence, *and targeting high profile individuals such as Mrs. Tucker is not protected free speech.* Calling Mrs. Tucker a *"Mfer," a traitor to her people, a person targeted for violence* is not protected opinion, fair comment, "lusty and imaginative expression," "mere obscenities, insults or other verbal "

The cases cited by the Shakur Estate and relied upon by the Court do not justify the grant of summary judgment. All of these cases emphasize that allegedly defamatory words must be considered in textual context, the factual circumstances of the allegedly defamatory comments, and particularly the audience to which the words are targeted.

Calling your neighbor a "Mfer" or using the word at a town meeting or in a call-in radio show is not quite the same as referring to someone as a "Mfer," a traitor to her people, worse than Bob Dole and all of the others, in a CD sold to 5,000,000 impressionable youth where the words and a two-page ad are an invitation to eliminate the "Mfer." *Baker v. Lafayette College*, 516 Pa. 291, 532 A.2d 399, 402 (1987); *Beverly Enterprises, Inc. v. Trump*, 1 F. Supp.2d 489 (W.D. Pa. 1998); *Dougherty v. The Boyertown Times*, 377 Pa. Super. 462, 547 A.2d 778 (1988):

> The nature of the audience is a critical factor in determining whether a statement is capable of defamatory meaning. "Even where a plausible innocent interpretation of the communication exists, if there is an alternative defamatory interpretation, the issue must proceed to the jury.
>
> • • •
>
> Injury to reputation is judged by the reaction of other persons in the community and not by the party's self-estimation.

Dougherty, 567 A.2d at 783. *Fram v. Yellow Cab Co. of Pittsburgh*, 380 F. Supp. 1314 (W.D. Pa. 1974); *Ramsey v. AT&T Corp.*, 1997 WL 560183 (E.D. Pa. 1997), Buckwalter J.; *Osby v. A & E Television Networks*, 1997 WL 338855 (E.D. Pa. 1997), Shapiro; *Jones v. Johnson & Johnson*, 1997 WL 549995 (E.D. Pa. 1997), Waldman, J. *Also see*, Annotations: *Civil Liability For Insulting Or Abusive Language – Modern Statute*, 20 A.L.R. 4th 773 (1983); and *False Light Invasion Of Privacy – Cognizability And Elements*, 57 A.L.R. 4th 22 (1987), especially §36 where particular portrayals or depictions have been found to be "highly offensive" (21 separate categories).

Most importantly, Your Court in *Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496, 111 S.Ct. 2419, 115 L.Ed. 2d 447 (1991), reversed the trial court for granting summary judgment with respect to seemingly innocuous words and phrases such as "Intellectual Gigolo," and "Greatest Analyst Who Ever Lived" directed at a high profile person.

Your Court in *Milkovich v. Lorain Journal*, 497 U.S. 1, 110 S.Ct. 2695, 111 L.Ed.2d 1 (1990) explains that there is no constitutionally protected "opinion" defense. *Milkovich* also provides a succinct, comprehensive summary of defamation law from the latter half of the 19th Century to the date of the opinion, and serves as controlling precedent in this case.

Naturally, Fischbein's comments as co-administrator of the Estate of Tupak Shakur must be considered as a separate issue. Mr. Fischbein certainly was not expressing an opinion when he characterized the original Tucker Complaint as being simply Mrs. Tucker asserting that lewd lyrics destroyed her sex life and she wanted $10 million dollars for it.

D. A jury should be permitted to determine whether or not the Shakur Lyrics, the elimination ad, and Fischbein's post-complaint spin were defamatory, placed Mrs. Tucker in a false light, were spoken with knowledge of falsity or reckless disregard of the truth, and were intended to and did cause emotional harm.

Plaintiff C. DeLores Tucker is a public figure because of her long years of hard work and dedication to the young and disenfranchised citizens of this country. It would be difficult to tell a bigger lie about her life than to say it represents an effort to destroy rather than help her fellow man—her brother.

Every intelligent person knows the importance of art and music in shaping our lives for better or worse.

It is the unkindest cut of all to "memorialize" Mrs. Tucker to 5,000,000 children as a "Mfer" who worked to harm and destroy the very people about whom she cared so deeply and the very "brother" whom she had spent her entire life trying to help. The statement was not only untrue – it was the antithesis of truth. Mrs. Tucker was prepared to prove that the words were untrue through the testimony of dozens of well-respected individuals, as well as through numerous benefactors of her lifetime of good works.

The personal attack on her was in reckless disregard of the truth, it was malicious, it was defamatory, and it must not go unpunished. It cannot be allowed to stand as a final unchallenged statement of public record.[2] Perhaps others will learn what Tupac Shakur did not. It may save their lives. The "thug life" and violence which gangsta rap extolls for black youth are the constant target of C. DeLores Tucker. If the Defendant Estate can even now still take the position that Tucker's condemnation of such activity was *harmful* to the youth of this country, they should have produced uncontested facts in support of their Motion for Summary Judgment. Since they have not produced, and cannot produce, such uncontested facts, their Motion for Summary Judgment should have been denied. If Tupac Shakur wanted to be a "social commentator" as Defendants contend, then he had an obligation to get his facts straight before publishing them across this nation and around the world. The Gangstas in the Suites in their two-page elimination ad, smut investigations, SLAPP lawsuits, and abuse of process activities were not merely expressing opinions, they were out to destroy Mrs. Tucker.

Defendants are correct that, when Tupac referred to Mrs. Tucker as a "Mfer," the intended audience did not interpret that word to mean that Mrs. Tucker had sexual relationships with her mother. The intended audience interpreted the use of that vile word to mean that she is the worst type of person that one could imagine, someone who should be marked for elimination, someone to be ridiculed and abused, someone to be hated, and ridiculed. The use of that vile term certainly was intended to and did reduce Mrs. Tucker's standing and reputation in the eyes of ***the intended audience***. Her family, friends, and those who know her as their savior or role model knew the words were untrue, but to the millions who revel in the lyrics of rap music Mrs. Tucker is and always will be somebody to be despised. If that is not defamation, false light, intentional infliction of emotional harm, nothing is.

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[2] If the truth had been told on the recording Shakur would have said: C. DeLores Tucker—The KKK's a sucker. You worked to stop that mother from killing one more brother. The boy's out in the 'hood must know that you did good. You played a bigger role than Clinton, Bush, or Dole.

There is no question that Tupac Shakur knew that Mrs. Tucker was not a "Mfer," a traitor to her people. He was a pawn for the "gangstas in the suites."

E. In the last ten years since *Masson* and *Milkovich*, the entertainment industry and news media have become incredibly powerful with a few corporate giants dictating what is said, published, and recorded throughout the country. As a result, the balance of power has shifted from the public figure to the press and entertainment industry.

Everyone is aware that fewer and fewer companies control what we see, hear, and read. Sex, violence and anything associated with celebrities and public figures sell. The entertainment industry no longer just provides entertainment but now enters our homes and dictates what we and our children see, hear, and read. Presidents and would-be presidents, high public officials, and everyone in the public eye is at the mercy of the media and entertainment giants. The media and/or the entertainment industry can destroy lifetime careers and reputations by a few words in a disk that is heard over and over by 5,000,000 impressionable children. They can and do create the "news." The news media and the entertainment industry not only can but do yell "fire" in a crowded theater and cause the havoc that follows. It is time for "freedom of the press" to be reconsidered under the incredibly changed circumstances of the late 20th and early 21st century.

CONCLUSION

Your Court should grant this Petition for writ of Certiorari for a variety of reasons:

1. It has been almost ten years since you last addressed defamation issues in ***Masson v. New Yorker Magazine, Inc.***, 501 U.S. 496, 111 S.Ct. 2419, 115 L.Ed. 2d 447 (1991) and ***Milkovich v. Lorain Journal***, 497 U.S. 1, 110 S.Ct. 2695, 111 L.Ed.2d 1 (1990).

2. Never before has a defamation issue been intertwined with nefarious actions of the entertainment industry such as is presented in this case.

3. The issues in this case, including the single publication rule, have not previously been addressed by Your Court.

4. The issue of "circumstances" of the defamatory language has not previously been addressed by Your Court.

5. The entertainment industry, as well as the "media," has grown to such incredible proportions that a relatively few companies now control the entertainment industry and/or the media. As a result, freedom of the press today is much different than our founders envisioned at the time of the Constitution.

Respectfully submitted
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PROOF OF SERVICE

I, Richard C. Angino, Esquire, hereby certify that I have this 15th day of November, 2000, served three true and correct copies of Petition for Writ of Certiorari to the Third Circuit Court of Appeals by sending same by United States first-class mail, postage prepaid, to the following.

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I further certify that all parties required to be served have been served.

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 99-1169

C. DELORES TUCKER; WILLIAM TUCKER,
her husband

v.

MTS INC., t/a TOWER RECORDS; INTERSCOPE, INC.; INTERSCOPE RECORDS; TED FIELD; TIME WARNER; JAMES IOVINE; SEAGRAM CO; MCA INC.; DEATH ROW RECORDS, INC.; DAVID KENNER; RICHARD FISCHBEIN, as co-administrator and AFENI SHAKUR, as co-administratrix of the ESTATE OF TUPAC SHAKUR;

C. Delores Tucker;
William Tucker,
Appellants

(Amended per Clerk's Order Dated 4/21/99)

Appeal from the United States District Court for the
Eastern District of Pennsylvania
(D.C. Civil Action No. 97-cv-04717)

Before: BECKER, *Chief Judge,* SLOVITER,
MANSMANN, SCIRICA, NYGAARD, ALITO,
ROTH, BARRY, AMBRO, FUENTES and STAPLETON[*],
Circuit Judges

ORDER

The petition for rehearing *en banc* filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court *en banc,* the petition for rehearing is denied.

By the Court,
/s/Jane R. Roth
Circuit Judge

Dated: SEP 1 2000

ch.cc:
RCA
DND
AJD
KJF
BWF
DWI
SJK
DEK
SMM

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[*] Senior Judge Stapleton is limited to panel rehearing only.

UNREPORTED—NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 99-1169

C. DELORES TUCKER;
WILLIAM TUCKER, her husband

v.

MTS INC, t/a TOWER RECORDS; INTERSCOPE, INC; INTERSCOPE RECORDS; TED FIELD; TIME WARNER; JAMES IOVINE; SEAGRAM CO; MCA INC; DEATH ROW RECORDS, INC.; DAVID KENNER; RICHARD FISCHBEIN, as co-administrator and AFENI SHAKUR, as co-administratrix of the ESTATE OF TUPAC SHAKUR;

C. Delores Tucker;
William Tucker,

Appellants

(Amended per Clerk's Order Dated 4/21/99)

Appeal from the United States District Court for the
Eastern District of Pennsylvania
(D.C. Civil Action No. 97-cv-04717)
District Judge: Honorable Ronald L. Buckwalter

Argued March 2, 2000

Before: ROTH, BARRY and STAPLETON, *Circuit Judges*

(Memorandum Opinion filed: July 17, 2000)

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MEMORANDUM OPINION

ROTH, *Circuit Judge:*

C. Dolores Tucker, in a career of community service,[1] has taken on as a target gangsta rap and its "vile, profane, obscene and indecent lyrics which glorify drugs, violence, and illicit sex." She has led a number of highly publicized protests against gangsta rap, including the music of Tupac Shakur. In apparent reaction, Shakur in February 1996 released a record which included two songs referring to Tucker. One, *Wonda Why They Call U,* has the following lyric:

---

[1] Delores Tucker is undoubtedly a public figure. She has served for example as Secretary of State of the Commonwealth of Pennsylvania and as Chair of the Democratic National Committee Black Caucus.

> Dear Ms. Delores Tucker, you keep stressin' me,
> fuckin with a motherfuckin' mind.
> I figured you wanted to know, you know,
> why we call them ho's bitches.
> Maybe this might help you understand.
> It ain't personal.
> It's strictly business, baby, strictly business.

The other song, *How Do U Want It,* includes this language:

> Delores Tucker, yous a muthafucka, instead of trying to help a nigga you destroy a brotha, worst than the others, Bill Clinton, Mr. Bob Dole, you too old to understand the way the game's told.

Tucker responded to these lyrics with a law suit against the Estate of Tupac Shakur[2] and against various recording companies and record distributors and retailers, charging that Shakur's recordings were slanderous and constituted an invasion of privacy and intentional infliction of emotional distress. Tucker's husband, William Tucker, joined the suit with a claim for loss of consortium.

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[2] Shakur has since been shot to death. His estate was substituted as a party to this action.

In addition to the allegedly defamatory language of the two songs, the suit also claimed that the Tuckers suffered emotional distress from a lawsuit brought against Tucker by Interscope Records in California and from Tucker's arrest outside a Tower Records location in Philadelphia where Tucker was protesting against rap music. The second amended complaint which was subsequently withdrawn also alleged a claim arising from statements, after the original complaint was filed, made by appellee Richard Fishbein as co-administrator of Tupac Shakur's estate.

Tucker's suit was brought on July 21, 1997, as a diversity action in the United States District Court for the Eastern District of Pennsylvania. After the Tuckers amended their complaint once and attempted to do so a second time, the District Court, on statute of limitations grounds, dismissed the action against all defendants except the Estate of Tupac Shakur. The Estate proceeded with discovery and then moved for summary judgment. The District Court granted the motion, finding that the language in question was not defamatory, and that the other claims based upon it, intentional infliction of emotional distress, invasion of privacy and loss of consortium, must also fail. The Tuckers appealed. They contend that the District Court erred in its first order, dismissing all defendants except the Estate of Tupac Shakur on statute of limitations grounds, and that as to the Estate, the court erred in ruling that the lyrics were not defamatory.[3]

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[3] Richard Fishbein had been quoted in the *Philadelphia Daily News* as saying, in reference to the loss of consortium claim, that it was hard to conceive how

The District Court had jurisdiction under 28 U.S.C. §1332. We have jurisdiction under 28 U.S.C. §1291. Our standard of review is plenary.

The Estate of Tupac Shakur has not argued on appeal that the claim against it is barred by the statute of limitations. We will therefore, in our consideration of this appeal focus on the issue of whether the District Court properly determined that the statements are not defamatory.

The District Court found that the lyrics of the first song, *Wonda Why They Call U,* heard in their entirety, were a poignant description of the self-destruction of a young woman and that the reference to Tucker did not tend to injure her reputation, her business or profession, or expose her to public hatred, contempt or ridicule and thus were not defamatory. We agree.

As to the second song, *How Do U Want It*, we again agree with the District Court that these lyrics are vulgar but not defamatory. The reference to Tucker as a "muthafucka" is part of an expression of opinion—Shakur's opinion that Tucker was out to hurt rather than to help her fellow African-Americans.

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the lyrics could ruin Delores Tucker's sex life. A claim, based on this remark, was not asserted against the Estate until the second amended complaint which was filed by the Tuckers without permission of the court and later withdrawn. The claim was for that reason never properly before the District Court and is not properly a part of this appeal.

Fishbein, in his individual capacity, was also sued by the Tuckers in a separate action based the statement. The outcome of that suit is not involved in any way in this appeal.

An expression of opinion, without more, is not defamatory. *See, e.g., Baker v. Lafayette College*, 532 A.2d 399, 402 (1987). This is so even when a "vigorous epithet" is used in reference to a public figure such as Tucker. *See Greenbelt Cooperative Publishing Ass'n v. Bresler*, 398 U.S. 6, 14 (1970).

We also conclude that the District Court properly granted summary judgment to the Estate on the three other claims against it: the intentional infliction of emotional distress, the invasion of privacy, and the loss of consortium.

Moreover, the District Court properly dismissed the claims against the other defendants. Even if we limit our consideration to the merits of these claims as we did with the claims against the Estate, rather than considering the statute of limitations, it was proper to dismiss the claims against them. Because these claims either arose from the alleged defamation or do not allege outrageous conduct on the part of these defendants, they were entitled to judgment in their favor.

For the above reasons, we will affirm the judgment of the District Court.

TO THE CLERK:

Please file the foregoing Memorandum Opinion.

By the Court,
/s/Jane R. Roth
Circuit Judge

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 99-1169

C. DELORES TUCKER;
WILLIAM TUCKER, her husband

v.

MTS INC, t/a TOWER RECORDS; INTERSCOPE, INC;
INTERSCOPE RECORDS; TED FIELD; TIME
WARNER; JAMES IOVINE; SEAGRAM CO; MCA INC;
DEATH ROW RECORDS, INC.; DAVID KENNER;
RICHARD FISCHBEIN, as co-administrator and
AFENI SHAKUR, as co-administratrix of the
ESTATE OF TUPAC SHAKUR;

C. Delores Tucker;
William Tucker,

Appellants
(Amended per Clerk's Order Dated 4/21/99)

Appeal from the United States District Court for the
Eastern District of Pennsylvania
(D.C. Civil Action No. 97-cv-04717)
District Judge: Honorable Ronald L. Buckwalter

Argued March 2, 2000

Before: ROTH, BARRY and STAPLETON, *Circuit Judges*

JUDGMENT

This cause came on to be heard on the record before the United States District Court for the Eastern District of Pennsylvania and was argued March 2, 2000;

On consideration whereof,

IT IS ORDERED AND ADJUDGED by this Court that the judgment of the District Court entered January 29, 1999 be and the same is hereby affirmed.

Costs taxed against appellant. All of the above in accordance with the opinion of this Court.

ATTEST:
/s/Marcia M. Waldron
Acting Clerk

Dated: July 17, 2000

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION
NO. 97-4717

C. DELORES TUCKER and
WILLIAM TUCKER, her husband,

Plaintiffs,

v.

RICHARD FISCHBEIN, as Co-Administrator of the
ESTATE OF TUPAC SHAKUR; AFENI SHAKUR, as
Co-Administratrix of the ESTATE OF TUPAC SHAKUR,

Defendants.

MEMORANDUM

BUCKWALTER, J. January 29, 1999

Before the court is the motion of defendants Richard Fischbein and Afeni Shakur, as Co-Administrators of the Estate of Tupac Shakur, requesting the court to enter summary judgment on their behalf as to all counts set forth in plaintiffs' amended complaint.

All other defendants named in the amended complaint were dismissed by order of this court dated February 18, 1998.

The amended complaint seeks relief against the defendants for:

1. Intentional infliction of emotional distress (Count II);
2. Slander (Count III);

3. Invasion of Privacy (Count IV); and

4. Loss of consortium.

The essence of the claims against the present defendants according to the complaint arise from: (1) publication of the song entitled "Wonda Why They Call U Bitch"; (2) publication of the song entitled "How Do You Want It"; and (3) published statements allegedly made by defendant Fischbein following the commencement of this action concerning Mr. Tucker's loss of consortium.

As to item (3), those alleged statements are the subject of another suit filed by plaintiffs against Richard Fischbein and other media defendants, and will be discussed in a memorandum opinion to be filed in 97-CV-6150. This present suit has been filed against Richard Fischbein in his representative capacity only.

I will deal in this memorandum with items (1) and (2) only.

With regard to item (1), I am struck initially by a statement in plaintiffs' reply brief as follows: "Plaintiffs' counsel, who has never listened to the lyrics, has been advised by the Tuckers' private counsel and friend, Paul Waters, that he (Waters) purchased and listened to the CD as part of the original fact finding. Mr. Waters also requested his son-in-law, Wayne Fleming, to listen to the CD. According to Mr. Waters and Mr. Fleming, the gangsta rap lyrics are not nearly as clear and understandable as Appendixes 1 and 2 (Defendants' version of the lyrics) would indicate. A copy of the CD is being supplied as Plaintiffs' Ex. 3." (See p. 3, *Plaintiffs' Memorandum of Law Contra Defendants' Motion for Summary Judgment.*)

And yet, having never listened to the CD, having apparently understood that the lyrics were hard to understand, counsel for plaintiff nevertheless signed the amended complaint which represented that the CD contained specific lyrics. Most offensive is paragraph 31 of the amended complaint signed by Richard C. Angino, which states as follows:

> Contained in the aforementioned recording entitled "Wonda Why They Call B" were lyrics stating "Got your legs up trying to get rich. Keep your head up and your legs closed Dear Ms. Delores Tucker" alluding to prostitution and tells why women are called bitches.

The reference to the lyrics in paragraph 31 is flat out wrong. In deposition testimony in reference to the above, the following exchange took place:

> Q. So what has happened here is that whoever put this quotation together, has taken snippets of words from the actual lyrics, words that are separated by many, many verses and run them together, as if they're a continuous statement, right?
>
> Angino: Absolutely.
>
> Q. Do you have any idea who did that?
>
> Angino: No, I honestly don't.
>
> Q. Would you agree with me that whoever did that was engaged in a gross and deliberate misrepresentation of these lyrics?
>
> Angino: Yes.

(Angino 62:18-24; 63: 1-10)

Later in that same deposition, Angino agrees that, "Exhibit Number 9, which is 'All Eyez On Me'; 'Wonda Why They Call U', if that in and of itself existed, I would not find an actionable basis, let's use that."

It seems that this whole lawsuit may not have been necessary if someone had carefully reviewed the lyrics complained of accurately and in the context of the entire song in which they appeared.

Contrary to the outrageous misstatement of the lyrics in paragraph 31, and the erroneous reference to the supposed lyrics in some newspapers (see plaintiffs' reply brief p. 3-4), the lyrics to the rap song, "Wonda Why They Call U Bitch", printed in their entirety as I heard and understood them on the CD supplied by plaintiffs, can be viewed in their own way, as quite poignant, referring as they do to the almost certain self-destruction of a young woman whose own fatalistic choices lead to that tragic end.[1]

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[1] "WONDA WHY THEY CALL U BITCH"
U wonda why they call u bitch, U wonda why they call u bitch
U wonda why they call u bitch, U wonda why they call u bitch
U wonda why they call u bitch, U wonda why they call u bitch

Look here Miss Thang, hate to salt yo game,
but yous a money hungry woman and you need to change.
In the locka room all the homies do is laugh,
high fives cause anotha nigga played yo ass.
It was said you was sleazy, even easy, sleep'n around for what you need.
Say it's yo thang, and you can shake it how you wanna,
give it up free or make your money on the corner.
But don't be bad, play the game, get mad and change.
Then you wonder why these muthafucka's call you names.
Still lookin' for a way out, and that's O.K.

(continued ...)

1. (...continued)

I can see you when you stray, it's a way out.
Keep your mind on your money, enroll in school,
and as the years pass by, you can show them fools.
But you ain't tryin' to hear me cause you're stuck,
you're headin' for the bathroom, 'bout to get tossed up.
Still lookin' for a rich man, you dug a ditch.
Got your legs up trying to get rich.
I love you like a sista, but you need to switch.
And that's why they called you bitch, I betcha.

U wonda why they call u bitch, U wonda why they call u bitch, I betcha
U wonda why they call u bitch, U wonda why they call u bitch
U wonda why they call u bitch, U wonda why they call u bitch, I betcha
U wonda why they call u bitch, U wonda why they call u bitch

You leave yo kids with yo mama cause you headed for the club,
in a skin tight mini skirt, lookin' for some love.
Got the legs wide open while you sittin' at the bar,
talkin' to some nigga 'bout his car.
I guess he said he had a Lexus. What's next?
You're heading to his car for some sex.
I pass by, I can't hold back tears inside, cause lord knows for years I tried.
And all the other people on my block hate yo guts,
then you wonder why they stare and call you slut.
It's like your mind don't understand.
You don't have to kill your dreams plottin' schemes on a man.
Keep your head up, legs closed, eyes open.
Either a nigga wear a rubba or we die smokin'.
I'm hearing rumors so you need to switch,
and niggas wouldn't call you bitch, I betcha.

U wonda why they call u bitch, U wonda why they call u bitch, I betcha
U wonda why they call u bitch, U wonda why they call u bitch, I betcha
U wonda why they call u bitch, U wonda why they call u bitch, I betcha
U wonda why they call u bitch, U wonda why they call u bitch

I guess times gettin' hard, even harder for you,
cause hey now, got a baby on the way now.
More money from the county, and thanks to the welfare,
you about to get your hair done.
You got a dinner date, can't be late, trick or treat,
sweet thang got anotha trick to meet.
The way you did it, it was smooth, plottin' while he's game'n
you, so baby beat the rules.
I should have seen it in the first case, the worst case,

(continued ...)

I am not totally clear whether counsel for plaintiffs has conceded that reference to his client in "Wonda Why They Call U Bitch" is not actionable. Accordingly, I find as a matter of law that the only reference to plaintiffs as underlined in footnote #1 is not defamatory, since it does not tend to injure her reputation, her business or profession, or expose her to public hatred, contempt or ridicule. See discussion of *Baker*, p. 9. Now, I turn my attention to the only remaining argument of plaintiffs, and that is the use of the word "muthafucka."

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1. (...continued)

I should have never called you back in the first place.
I remember back in high school, baby you was fast,
straight sex, when you moved your ass.

But now things changed, cause you don't look the same,
let the ghetto get the best of you, baby that's a shame.
You caught H.I.V., and now you're about to be deceased,
and finally be at peace.
So where your nigga's at now? Cause everybody left.
They stepped, and left you on your own.
See, I loved you like a sista, but you died too quick.
And that's why we called you bitch, I betcha.

U wonda why they call u bitch, U wonda why they call u bitch, I betch
U wonda why they call u bitch, U wonda why we call u bitch, I betcha
U wonda why we call u bitch, U wonda why we call u bitch, I betcha
U wonda why we call u bitch, U wonda why we call u bitch

Dear Ms. Delores Tucker, you keep stressin' me,
fuckin with a motherfuckin' mind.
I figured you wanted to know, you know, why we call them ho's bitches.
Maybe this might help you understand.
It ain't personal.
It's strictly business, baby, strictly business.

So if u wonda why we call u bitch, u wonda why we call u bitch
If u wonda why we call you bitch, u wonda why we call u bitch

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Appendix

The entire text of "How Do U Want It" follows, as I understand it from listening to the CD:

How do you want it? How does it feel?
Comin' up as a nigga in a cash game, livin' in the fast lane, I'm fo' real.
How do you want it? How do you feel?
Comin' up as a nigga in a cash game, livin' in the fast lane, I'm fo' real.

Love the way you activate yo hips and push yo ass out,
got a nigga wantin' it so bad, I'm about to pass out.
Want to dig you, and I can't even lie about it.
Baby just alleviate your clothes, it's time to fly.
Catch you at a club, oh shit you got me fiending,
body talkin' shit to me, but I can't comprehend the meanin'.
Now if you want to roll with me, then here's your chance,
doin' 80 on a freeway, police catch me if you can.
Forgive me, I'm rider, still I'm just a simple man,
all I want is money, fuck the fame, I'm a simple man.
Mr. International player with the passport
just like Aladdin, bitch, get you anything you ask for.
It's either him or me, the champagne, Hennessy,
favorite of my homies when we floss on our enemies.
Witness as we creep to a low speed, peep what a ho need,
puffs some mo' weed, funk, you don't need.
Approach a hoochie with a passion, been a long day,
but I been driven by attraction, in a strong way.
Yo body is bangin', baby, I love it when you flaunt it,
time to give it to daddy nigga.
Now tell me how you want it.

How do you want it? How does it feel?
Comin' up as a nigga in a cash game, livin' in the fast lane, I'm fo' real.
How do you want it? How do you feel?
Comin' up as a nigga in a cash game, livin' in the fast lane, I'm fo' real.

Now tell me is it cool to fuck? Did you think I come to talk?
Am I a fool or what? Positions on the floor.
It's like erotic, ironic, 'cause I'm somewhat psychotic.
I'm hittin' switches on bitches like I been fixed with hydraulics.
Up and down like a roller coaster, I'm up inside ya,
I ain't quittin' till the show's over, 'cause I'm a rider.
In and out just like a robbery, I probably be a freak and let you get on top of me and rock your knees.
Nights full of Alizé, a livin' legend, you ain't heard about these niggas play these Cali days.
Delores Tucker, yous a muthafucka, instead of trying to help a nigga you destroy a brotha, worst than the others,

19a
Appendix

Bill Clinton, Mr. Bob Dole, you too old to understand the way the game's told.
You lame soul, I got to hit you with the high facts.
When some release makin' millions, niggas top that,
they want to sentence me, they rather see me in a cell, livin' in hell,
only a few of us will live to tell.
Now everybody talkin' about us, I can give a fuck,
like we're the first ones to bomb and cuss.
Nigga tell me how you want it.

How do you want it? How does it feel?
Comin' up as a nigga in a cash game, livin' in the fast lane, I'm fo' real.
How do you want it? How do you feel?
Comin' up as a nigga in a cash game, livin' in the fast lane, I'm fo' real.

Raised as a youth, tell the truth, I got the scoop on how to get a bullet proof,
'cause the shots are from the roof.
Before I was a teenager, mobile phone, sky pager, gained rules.
I'm livin' major.
My adversaries is lookin' worried, they paranoid of gettin' bumped.
One of us is going to see the cemetery.
My only hope to survive, if I wish to stay alive, gettin' high,
see the demons in my eyes before I die.
I want to live my life in [indecipherable] with a couple of million,
and then I'm chillin, fade 'em all.
These taxes got me crossed up, and people trying to sue me,
media is in my business and they acting like they know me.
But I'm a mash out and peel out,
I'm with a clique that's quick to whip a fuckin' steel out.
Yeah nigga, it's some new shit, so betta get up on it.
When you see me tell a nigga how you want it,
how do you want it.

How do you want it? How does it feel?
Comin' up as a nigga in the cash game, livin' in the fast lane, I'm fo' real.
How do you want it? How do you feel?
Comin' up as a nigga in the cash game, livin' in the fast lane, I'm fo' real.
How do you want it? How do you feel?
Comin' up as a nigga in the cash game, livin' in the fast lane, I'm fo' real.

Once again, the words set forth in the complaint are not correct but the mistake is not as flagrant. Any way you look at it, in this song C. Delores Tucker, one of the plaintiffs in this case is called a muthafucka (see italics in lyrics), an epithet which is unpleasant at best and vulgar at worst.

We can put to rest the initial argument over whether the word "muthafucka" was intended to be or would be understood as a statement of fact. Plaintiffs concede that Mr. Shakur did not intend and listeners did not understand those words to have literal, factual, sexual meanings. Rather, plaintiffs' contention is that the word "muthafucka" is the ultimate insult that can be directed about someone among the intended audience of rap music. That is, the listeners understood Mr. Shakur intended the word to mean that C. Delores Tucker was a bad person who was out to hurt rather than help fellow African-Americans.

"In order for a statement to be considered libelous or slanderous, the trial court must, in the first instance, make a determination as to whether the communication complained of can be construed to have the defamatory meaning ascribed to it by the complaining party" is the oft-cited quote from *Baker v. Lafayette College,* 516 Pa. 291, 296, 532 A.2d 399, 402 (1987). In making that determination, the *Baker* opinion instructs the trial court that it must view the statement in context with an eye to determining:

(a) whether the statement was maliciously written or published; and

> (b) whether it tended to blacken a person's reputation or to expose him to public hatred, contempt, or ridicule, or to injure him in his business or profession.

Baker further advises that:

> (1) the test to be applied in evaluating any statement is the effect the communication is fairly calculated to produce, the impression it would engender, in the minds of the average persons among whom it is intended to circulate; and
>
> (2) a critical factor in determining whether a communication is capable of defamatory meaning is the nature of the audience hearing the remarks.

Finally, according to *Baker,* opinion without more does not create a cause of action. Instead, the allegedly libeled party must demonstrate that the communicated opinion may reasonably be understood to imply the existence of undisclosed defamatory facts justifying the opinion.

The law with regard to opinion becomes important in this case because it is conceded that what Tupac Shakur is saying is opinion, not fact. His opinion, to express it in the words of plaintiffs' counsel, and as previously referred to, was that C. Delores Tucker was a bad woman who was out to hurt rather than help her fellow African-Americans. The statement from *Baker* that "opinion without more does not create a cause of action in libel" is based in part on the following:

> "Under the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas."

Gertz v. Robert Welch, Inc., 418 U.S. 323, 339-40, 94 S. Ct. 2997, 3007 (1974).

Thus, even though the opinion of Tupac Shakur, as conveyed in his rap music, may appear to promote false ideas which are destructive or disastrous to society in the opinion of plaintiffs and others, the way to overcome such false ideas is through the effort to promote other ideas as being more worthy of following. Indeed, that is precisely the course of conduct which plaintiffs have been following. The Tuckers have been crusading for some time to make the public aware of their opinions. To the extent Tupac Shakur or others disagreed with plaintiffs, they have a constitutionally protected right to state their opinion.

This does not, however, give one a license to defame under the guise of simply stating an opinion. Statements of opinion are actionable if the alleged defamed party can "demonstrate that the communicated opinion may reasonably be understood to imply the existence of undisclosed defamatory facts justifying the opinion." *Baker*, at 297.

There is of course no factual basis to the use of the word "muthafucka" in this case. The situation in this case seems more akin to the comment in Restatement (Second) of Torts §556 cmt. e, which follows:

> There are some statements that are in form statements of opinion, or even of fact, which cannot reasonably be understood to be meant literally and seriously and are obviously mere vituperation and abuse. A certain amount of name-calling is frequently resorted to by angry people

> without any real intent to make a defamatory assertion, and it is properly understood by reasonabie listeners to amount to nothing more. This is true particularly when it is obvious that the speaker has lost his temper and is merely giving vent to insult.

Although the restatement referred to tends to be illustrative of a more direct confrontation, *ie.*, face to face, than the one in this case, I find that what we have at most in this case by the transmission of the word "muthafucka" in the context of the song and the prior background of plaintiffs' hard-fought crusade against gangsta rap is nothing more and nothing less than the use of a vigorous epithet; and by vigorous epithet I mean a powerful (in effect) term of abuse or contempt.

The Third Circuit, in an opinion written by Judge Arlen Adams, affirming an opinion written by then District Judge A. Leon Higginbotham, Jr., cited with approval the following language from *Redding v. Carlton*, 233 Pa. Super 136, 296 A.2d 880 (1972):

> To prevent a chilling effect on free speech, the Supreme Court of Pennsylvania has held that "statements which represent differences of opinion or are annoying or embarrassing, are without more not libelous." *Bogash v. Elkins*, ... 405 Pa. 437, 440, 176 A.2d 677, 679 (1962). Neither is a statement libelous which is "no more than rhetorical hyperbole" or "a vigorous epithet" used to describe what the publisher believes to be another's extremely unreasonable position. *Greenbelt Cooperative Publishing Ass'n v. Bresler*, 398 U.S. 6, 14, 90 S.Ct. 1537, 26 L.Ed.2d 6 ... (1970).

Both plaintiffs and defendants also cite two U.S. Supreme Court cases as helpful to their argument. Plaintiffs argue that *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 110 S. Ct. 2695 (1990), and *Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496, 111 S. Ct. 2419 (1991), "indicate a turn of direction in favor of high profile victims of defamation." Throughout this case, and in both oral and written argument, plaintiffs have explicitly pointed out the background of C. Delores Tucker by way of confirming that she is a well-known, "high profile" person.

First, in my view, *Milkovich* clarifies prior law. Plaintiffs are correct that there is no wholesale exemption for anything that might be labeled opinion and *Gertz*, quoted above, did not intend that to be the case. What *Milkovich* affirms in its review of the law is "that a statement of opinion relating to matters of public concern which does not contain a provably false factual connotation will receive full constitutional protection." *Milkovich*, at 2706. Second, *Masson* follows the *Milkovich* statement relative to opinion. I do not believe that either case suggests any turn of direction in favor of high profile victims of defamation.

Based upon all of the foregoing, I conclude that the language plaintiffs object to is not actionable, and that the three other claims based upon it: intentional infliction of emotional distress; invasion of privacy; and the derivative consortium claim, must also fail.

An order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION
NO. 97-4717

C. DELORES TUCKER and
WILLIAM TUCKER, her husband,

Plaintiffs,

v.

RICHARD FISCHBEIN, as Co-Administrator of the
ESTATE OF TUPAC SHAKUR; AFENI SHAKUR, as
Co-Administratrix of the ESTATE OF TUPAC SHAKUR,

Defendants.

ORDER

AND NOW, this 29th day of January, 1999, it is hereby ORDERED that summary judgment is entered in favor of defendants Richard Fischbein, as Co-Administrator of the Estate of Tupac Shakur and Afeni Shakur, as Co-Administratrix of the Estate of Tupac Shakur and against plaintiffs C. Delores Tucker and William Tucker.

BY THE COURT:
/s/RONALD L. BUCKWALTER, J.

ENTERED: 1-29-99
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION

NO. 97-4717

C. DELORES TUCKER and WILLIAM TUCKER,
her husband,

Plaintiffs,

v.

MTS, INC. t/a TOWER RECORDS, INTERSCOPE, INC.; INTERSCOPE RECORDS; TED FIELD TIME WARNER; JAMES IOVINE; SEAGRAM CO.; MCA INC.; DEATH ROW RECORDS, INC.; DAVID KENNER; ESTATE OF TUPAC SHAKUR; RICHARD FISCHBEIN as co-administrator of the ESTATE OF TUPAC SHAKUR and AFENI SHAKUR as co-administratrix of the ESTATE OF TUPAC SHAKUR,

Defendants.

MEMORANDUM

BUCKWALTER, J. February 18, 1998

In the instant diversity action plaintiff, C. Delores Tucker, ("Tucker") along with her husband, Plaintiff, William Tucker, ("William Tucker" collectively the "Tuckers") allege that certain lyrics from late rap superstar Tupac Shakur's ("Shakur") album *All Eyez on Me* have caused them emotional distress, are defamatory, and have invaded their privacy. The Tuckers seek in excess of $10,000,000 in damages and an order enjoining further sale and distribution of the recording. In their amended complaint ("Amended Complaint")[1] thirteen individuals and/or entities are named as defendants. Presently the court is faced with numerous motions filed by defendants requesting dismissal and/or transfer of the action.

I. Transfer

The following defendants request transfer of this action to the United States District Court for the Central District of California; Interscope Inc., Interscope Records, Ted Field, James Iovine, MCA Inc., Seagram Co., and Time Warner.[2] (Docket No. 38). Defendants Death Row Records and David Kenner have joined this motion. (Docket No. 37). Hereafter defendants moving for transfer are referred to collectively as the "California Defendants." Defendant MTS Inc. t/a Tower Records ("Tower") and the Tuckers have filed briefs opposing California Defendants' motion for transfer. (Docket Nos. 48 and 57).

Title 28 of the United States Code, Section 1404(a) provides: "[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought." Thus, in deciding a §1404(a) motion, the court must first determine whether the proposed transferee district is one in which the plaintiff could have initially filed the action. *Hoffman v. Blaski,* 363 U.S. 335, 343-344 (1960). Notably, no party mentions this threshold test. Section §1391 provides in relevant part: "(a) A civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought in . . . (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred. ..." The Tuckers' Amended Complaint stems from the release of Shakur's infamous recording *All Eyez on Me. All Eyez on Me* was produced in Los Angeles, California, therefore, the instant action could have been brought in the Central District.

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[1] The original complaint was filed on July 21, 1997 and was amended on August 27, 1997.

[2] The names of several defendants in the case caption are incorrect. Interscope, Inc. should be Interscope Records Inc.; Ted Field should be Frederick W. Field; Seagram Co. should be Joseph E. Seagram & Sons, Inc. and Time Warner should be Time Warner Inc. (Docket No. 38)

The district court has broad discretion to transfer an action, but defendants have the burden of establishing propriety of such action. *Tranor v. Brown,* 913 F.Supp. 388, 391 (E.D.Pa.1996) (citations omitted). California Defendants have failed to meet this burden.

In August 1995, Interscope Records sued Tucker claiming that she attempted to induce CEO of Death Row Records, Suge Knight, into breaching the company's distribution contract with Interscope and signing a new distribution agreement with Tucker. Based on the same factual allegations Death Row Records also instituted an action against Tucker and several other defendants containing extortion, contract and RICO claims. The two suits (the "California Actions") were deemed related and were assigned to the same Central District of California Judge. California Defendants now argue that many issues and proceedings in the instant action are duplicative of the California Actions and therefore all three cases should be heard by the same judge, specifically the one presently presiding over the California Actions in the Central District of California.

California Defendants are correct in that presence of a related case in the transferee forum is a powerful reason to grant a change of venue. *Blender v. Sibley*, 396 F.Supp. 300 (E.D.Pa. 1975) (citing *Blanning v. Tisch*, 378 F.Supp. 1058, 1061 (E.D.Pa. 1974). However, any relation between the instant action and the California Actions is insignificant. The California Actions are merely mentioned in conjunction with the Tuckers' defamation and emotional distress claims and these allegations are clearly tangential to the focus of their suit, Shakur's allegedly slanderous lyrics.[3] Therefore, I find that the existence of the California Actions does not warrant transfer. Accordingly, California Defendants' motion for transfer is denied.

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[3] Interscope's lawsuit is mentioned by name, but, references are later made to "the lawsuits", therefore I find that the Tuckers' allegations relate to both Interscope's and Death Row Record's suits. This finding is supported by the Tuckers brief in opposition to transfer.

II. 12(b)(6) : Statue of Limitations

The following twelve defendants have submitted Rule 12(b)(6) motions to dismiss the Tuckers' Amended Complaint for failure to state a claim; the California Defendants (Docket Nos. 36, 40 and 58); Tower (Docket Nos. 47 and 60) and Richard Fischbein, as co-administrator of the Estate of Tupac Shakur and Afeni Shakur, as co-administratrix of the Estate of Tupac Shakur (collectively, the "Estate Representatives") (Docket Nos. 44 and 61).[4]

The Tuckers' Amended Complaint contains three causes of action; intentional infliction of emotional distress (Count II); slander (Count III) and invasion of privacy (Count IV).[5] Moving defendants argue that all three counts are time barred.[6]

Under Pennsylvania law, which no party disputes the applicability of, the tort of intentional infliction of emotional distress carries a two year statute of limitations and the applicable limitations period for a claim of slander or invasion of privacy is one year. 42 Pa.C.S.A. §§5523(2), 5524 (7) (1981 & Supp. 1997).

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[4] The thirteenth defendant, the Estate of Tupac Shakur, has made an appearance but filed no motions.

[5] Count I of the Amended Complaint entitled "Preliminary Injunction" is actually a request for injunctive relief not a cause of action.

[6] William Tucker's claims are derivative of his wife's, therefore, grounds for dismissing Tucker's claims are equally applicable to his.

The exact actions that give rise to the Tuckers' claims are far from clear from the pleadings. From a broad reading of the Amended Complaint it appears as though the Tuckers' claims are based on Shakur's album, which was released in February 1996, and the filing in August 1995 of the California Actions. Additionally, on March 2, 1996 Tucker protested sale of *All Eyez on Me* in front of a Tower Records store in Philadelphia, which is owned and operated by defendant Tower. As a result of her protest and amid much publicity, Tucker was arrested, handcuffed and forcibly removed by police at the express direction of Tower. The Tuckers' claim that this incident has also tarnished Tucker's reputation and caused her emotional distress.[7] The instant action was not filed until July 21, 1997, well beyond the one year statutory limitations period applicable to slander and privacy claims. In September 1996 Shakur was murdered in a drive by shooting. Under Pennsylvania law, suit may be brought against an alleged tort-feasor's estate within one year after his death although the applicable limitation would have barred the action sooner. 20 Pa.C.S.A §3383 (1975 & Supp. 1997). This extension is applicable only to suits against the estate. Therefore, the Tuckers' slander and privacy claims are dismissed as time barred as to all defendants except the Estate Representatives and the Estate of Tupac Shakur.

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[7] The Tuckers also refer to allegedly defamatory statements made by defendant Richard Fischbein. These statements are the subject of a related suit filed by Tucker that is also before me (Tucker, et al v. Fischbein, et al., 97-cv-6150) and therefore will not be reviewed in the present context.

Because the "gravamen" of the Tuckers' intentional infliction of emotional distress claim is Shakur's allegedly defamatory lyrics, California Defendants, Tower and the Estate Representatives argue that the emotional distress claim should be accorded the shorter one year limitations period and therefore should also be dismissed as time barred.

In *Evans v. Philadelphia Newspapers, Inc.*, the Pennsylvania Superior Court recognized that where a tortious interference claim springs from the same conduct as a defamation claim parties should not be able to circumvent the statute of limitations merely by terming the claim as tortious interference when in essence it is one of defamation subject to a one year statute of limitations. *Evans v. Philadelphia Newspapers, Inc.*, 601 A.2d 330 (Pa. Super. 1991). This reasoning has been acknowledged by several courts in this district and is applicable to the case at hand. *See Rolite v. Wheelabrator,* 958 F.Supp. 992 (E.D.Pa. 1997); *Hanenberg v. Borough of Bath,* 1994 WL 388279 *3 (E.D.Pa. July 27, 1994); *Hurst v. Beck,* 1992 WL 396592 *3, 4 (E.D.Pa. December 17, 1992). The Tuckers' emotional distress and slander claims are virtually identical. There is no independent basis for Tucker's emotional distress claim—the claim exists solely because of various defendants' roles in disseminating allegedly defamatory statements (Shakur's lyrics) and various defendants' allegedly derogatory actions (the filing of the California Actions and Tucker's publicized arrest). Therefore, because it springs from their defamation claim, the Tuckers' emotional distress claim is subject to a one year statute of limitations and is time barred against all defendants except the Estate Representatives and the Estate of Tupac Shakur. *See* 20 Pa.C.S.A §3383 (1975 & Supp. 1997).

Finally, Estate Representatives argue that the Tuckers' failure to comply with California's nonclaim statute precludes any action against them. This statute provides, in part, that a tort claimant may not recover money damages from an estate unless within four months after the issuance of the letters of administration the claimant files a claim with the estate. Ca. Prob. Code §§9000(a)(1), 9351 (West 1997). Letters of administration were issued in November 1996 and the Tuckers admit they have never filed a claim with the estate. Thus it appears that the Tuckers' failure to file a claim will have a fatal effect on their ability to collect from Shakur's estate if they ultimately receive a favorable money judgment. Their probable inability to collect, however, does not mandate dismissal of their claim by this court. The Tuckers' may proceed in the instant action at their own risk. Accordingly, the Tuckers' slander, invasion of privacy and intentional infliction of emotional distress claims against the Estate Representatives and the Estate of Tupac Shakur are not dismissed.

An order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CIVIL ACTION
NO. 97-4717

C. DELORES TUCKER and
WILLIAM TUCKER, her husband,

Plaintiffs,

v.

MTS, INC. t/a TOWER RECORDS, INTERSCOPE, INC.; INTERSCOPE RECORDS; TED FIELD TIME WARNER; JAMES IOVINE; SEAGRAM CO.; MCA INC.; DEATH ROW RECORDS, INC.; DAVID KENNER; ESTATE OF TUPAC SHAKUR; RICHARD FISCHBEIN as co-administrator of the ESTATE OF TUPAC SHAKUR and AFENI SHAKUR as co-administratrix of the ESTATE OF TUPAC SHAKUR,

Defendants.

ORDER

AND NOW, this 18th day of February 1998, upon consideration of:

1. Defendants' Interscope Records, Interscope Inc., Ted Field, James Iovine, MCA Inc., Seagram Co., Time Warner, Death Row Records, and David Kenner, motion for transfer (collectively the "California Defendants") (Docket Nos. 37 and 38); Plaintiffs' memorandum in opposition (Docket No. 57); and Defendant's, MTS Inc. t/a Tower Records ("Tower"), memorandum in opposition (Docket No. 48), it is hereby ORDERED that California Defendants' motion to transfer is DENIED;

2. California Defendants' motion to dismiss (Docket Nos. 36 and 40); Tower's motion to dismiss (Docket No. 47); Defendants', Richard Fischbein, co-administrator of the Estate of Tupac Shakur and Afeni Shakur, co-administratrix of the Estate of Tupac Shakur (collectively the "Estate Representatives") motion to dismiss (Docket No. 44); Plaintiffs' answer to all motions to dismiss (Docket No. 55); California Defendants' reply (Docket No. 58); Tower's reply (Docket No. 60) and Estate Representatives' reply (Docket No. 61) it is hereby ordered that California Defendants' motion to dismiss is GRANTED; Tower's motion to dismiss is GRANTED and Estate Representatives' motion to dismiss is DENIED. Accordingly, *all defendants except* the Estate of Tupac Shakur, Richard Fischbein as co-administrator of the Estate of Tupac Shakur and Afeni Shakur as co-administratrix of the Estate of Tupac Shakur are DISMISSED; and

3. California Defendants' 12(b)(2) motion to dismiss (Docket Nos. 35 and 39); Plaintiffs' answer (Docket No. 56) and California Defendants' reply (Docket No. 59), it is hereby ordered that California Defendants' 12(b)(2) motion is DISMISSED as moot.

BY THE COURT:
/s/RONALD L. BUCKWALTER, J.

ENTERED: 2/19/98
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CIVIL ACTION NO. 97CV-4717
FILE JUL 21 1997

C. DELORES TUCKER and
WILLIAM TUCKER, her husband,

Plaintiffs

v

MTS, INC. t/a TOWER RECORDS; INTERSCOPE, INC.; INTERSCOPE RECORDS; TED FIELD; TIME WARNER; JAMES IOVINE; SEAGRAM CO.; MCA INC.; MERRILL LYNCH; DEATH ROW RECORDS, INC.; DAVID KENNER; and AFENI SHAKUR as administratrix of the ESTATE OF TUPAC SHAKUR,

Defendants

JUDGE ________________

JURY TRIAL DEMANDED

COMPLAINT

1. Plaintiff C. Delores Tucker is the chair of the nonprofit National Congress of Black Women, Inc. She is the former Secretary of State of the Commonwealth of Pennsylvania and Chair of the Democratic National Committee Black Caucus and the National Board of N.A.A.C.P.

2. Plaintiff C. Delores Tucker resides in the Commonwealth of Pennsylvania.

3. Plaintiff William Tucker is married to C. Delores Tucker and resides in the Commonwealth of Pennsylvania.

4. Defendant MTS, Inc., under the trade name of Tower Records, is a California Corporation with its principal place of business in California.

5. Defendant Interscope, Inc. is a California Corporation with its principal place of business in California.

6. Defendant Interscope Records is a California General Partnership with its principal place of business in California.

7. Defendant Ted Field is an owner or partner and/or has a financial interest in Interscope Records and resides in a state other than Pennsylvania.

8. Defendant Time Warner has or had a financial interest in Interscope Records, and its principal place of business is in a state other than the Commonwealth of Pennsylvania.

9. Defendant James Iovine is the President of Interscope Records and resides in a state other than Pennsylvania.

10. Defendant Seagram Co. is a company with a financial interest in Interscope and has its principal places of business outside of the Commonwealth of Pennsylvania.

11. Defendant MCA Inc. and/or Universal are corporations with a financial interest in Interscope and principal places of business in a state other than the Commonwealth of Pennsylvania.

12. Defendant Merrill Lynch is a business entity with a financial interest in Interscope and its principal place of business in a state other than the Commonwealth of Pennsylvania.

13. Defendant Death Row Records, Inc., is a California Corporation with its principal place of business in California.

14. David Kenner is an attorney representing Death Row Records, Inc., may have a proprietary and/or other financial interest in Death Row Records, and resides outside the Commonwealth of Pennsylvania.

15. Defendant Afeni Shakur who resides in a state other than Pennsylvania is the Administratrix of the Estate of deceased Defendant Tupac Shakur.

16. At all times relevant to this Complaint, up until his death on September 13, 1997, deceased Defendant Tupac Shakur was a servant, agent, apparent agent and/or employee of Defendant Death Row Records and was acting within the course and scope of employment for Death Row Records.

17. At all times relevant to this Complaint, James Iovine was a servant, agent, and/or employee of Interscope Records and was acting within the course and scope of employment for Interscope Records.

18. At all times relevant to this Complaint, David Kenner was a servant, agent, and/or employee of Death Row Records, Inc. and was acting within the course and scope of employment for Death Row Records.

19. At all times, relevant to this Complaint, Defendant Interscope Records had an exclusive distribution agreement with Defendant Death Row Records through which Interscope Records distributed under its label, recordings produced by Defendant Death Row Records.

20. At all times relevant to this Complaint, Defendant Interscope Inc., was the managing general partner of Defendant Interscope Records.

21. At all or various times relevant to this Complaint, Interscope Records was 50% owned by Seagram Co.'s MCA Inc.

22. At all or various times relevant to this Complaint, Interscope Records was owned in part by Time Warner or Time Warner had a financial interest in Interscope.

23. Prior to February, 1996, Plaintiff C. Delores Tucker was the leader of a large group of religious, moral, and law abiding citizens who marched, lobbied, and campaigned against the pornographic and drug oriented misogynistic lyrics of "gangsta" rap as created, promoted, distributed, and marketed by various defendants to minors without restriction.

24. "Gangsta rap" is a slang expression using vernacular for the word "gangster" which, by definition refers to one engaged in anti-social or criminal behavior. Furthermore, the music contains vile, profane, obscene and indecent lyrics which glorify drugs, violence, and illicit sex. "Rap" or "Hip Hop" is a form of music, more spoken than sung, and can be distinguished from "gangsta rap" in that it chronicles life in the

ghetto without obscene and indecent lyrics, and may have redeeming social value.

25. Various defendants involved with Death Row Records and "gangsta" rappers take pride in the sex, drugs and "gangsta" violent behavior and its influence on increased record sales.

26. Plaintiff has focused her attention on stopping the production and distribution of said music to impressionable youth, because it tends to corrupt the morals of minors, in violation of 18 Pa.C.S.A. §6301(a), that some of it is obscene and unprotected by the Constitution, and some is "explicitly sexual material" in violation of 18 Pa.C.S.A. §5903(c). See Exhibits "A" and "B" attached hereto.

27. Said efforts met with widespread support across political, racial and economic lines, including support from William Bennett, former U.S. Secretary of Education, U.S. Senator Joseph Lieberman, Majority Leader and Vice Presidential candidate Robert Dole, and General Colin Powell.

28. In February, 1996, Defendant Interscope Records, distributed under its label, "All Eyez On Me", which is a record containing music performed by deceased Defendant recording gangsta rap superstar Tupac Shakur and produced by Defendant Death Row Records.

29. Contained on the aforementioned recording entitled "All Eyez on Me" are recordings entitled "Wonda Why they Call B" and "How Do You Want It."

30. Contained in the aforementioned recording entitled "How Do You Want It" were lyrics stating "C. Delores Tucker you're a mother fucker, instead of trying to help a brother you destroy a nigga."

31. Contained in the aforementioned recording entitled "Wonda Why they Call B" were lyrics stating "Got your legs up trying to get rich. Keep your head up and your legs closed Dear Ms. Delores Tucker" alluding to prostitution and tells why women are called bitches.

32. In January, 1996, Plaintiff C. Delores Tucker engaged in a lawful protest against the sale of gangsta rap music to minors by Defendant MTS, Inc., under the trade name of Tower Records, in Philadelphia, Pennsylvania.

33. On March 2, 1996, Plaintiff again, in the exercise of her constitutional right to protest, engaged in a protest on the premises of Defendant, MTS, Inc., under the trade name of Tower Records, in Philadelphia, Pennsylvania to stop the sale to minors of sound recordings containing sexually explicit lyrics as expressly prohibited by 18 Pa. C.S.A. §5903 and 18 Pa. C.S.A. §6301(a). See Exhibits "A" and "B".

34. As a result of her lawful protest, Plaintiff was arrested, handcuffed, and forcibly removed by police from the premises of Defendant MTS, Inc., under the trade name of Tower Records

35. The aforementioned removal of Plaintiff C. Delores Tucker from the premises of Defendant MTS, Inc., under the trade name of Tower Records, took place under the express direction or with the knowledge and consent of Defendant MTS, Inc., under the trade name Tower Records.

36. Sometime after February 1, 1996, Defendant MTS, Inc., under the trade name of Tower Records, nevertheless offered for sale and sold to minors the aforementioned sound recording entitled "All Eyez On Me", and other gangsta rap albums containing sexually explicit messages, offensively coarse language and lewd and indecent words about Plaintiff C. Delores Tucker.

37. Defendants all participated in various ways, in the conceiving of the idea, creating the recording, the marketing/distributing and not recalling "All Eyez On Me" which contained sexually explicit messages, offensively coarse language, and lewd and indecent words about Plaintiff C. Delores Tucker in violation of 18 Pa. C.S.A. §5504.

38. In August, 1995, Defendant Interscope filed suit against Plaintiff C. Delores Tucker in California charging her, *inter alia,* with Inducement to Breach the Contract between Death Row and Interscope.

39. Defendants knew full well that Plaintiff had done no such thing and filed the false claim only to embarrass her, to cause emotion distress and to deter her crusade against gangsta rap.

40. In May, 1997, the U.S. District Court for the Central District of California (Case No. CV 95-5444), Judge M. Takasugi issued an opinion that there was no breach of contract and that Plaintiff did not induce a breach of the contract as alleged by Interscope, which of course they already knew.

41. Following the lawsuits and the release of the aforementioned recordings, Plaintiff, C. Delores Tucker has reasonable fear for her life because violence and death play a central role in the gangsta rap arena. Indeed, two prominent murders have been reported since the unsolved murder of Tupac Shakur in September, 1996.

42. Since the lawsuits and the release of the aforementioned recordings Plaintiff, C. Delores Tucker has received death threats.

43. The lawsuits and the release of the aforementioned recordings were intended to and did cause Plaintiff C. Delores Tucker severe emotional distress.

44. By using vile and offensive language, the recordings have held her up as an object of scorn to more than 5,000,000 people, including children in Philadelphia and elsewhere.

45. Since the lawsuits and the release of the aforementioned recordings C. Plaintiff C. Delores Tucker has suffered defamation of character and reputation.

46. Plaintiff, who is frequently called upon to speak at churches throughout the country, is a moral and religious daughter of a well-known, respected Philadelphia minister,

now deceased, and has siblings, extensive family, relatives, and thousands of friends in Philadelphia and throughout the country and world, who have heard or heard about the said recording and lawsuit.

47. As a result, Plaintiff C. Delores Tucker, has incurred medical expense; has undergone mental pain, suffering, and inconvenience; loss of life's pleasures; fears for her life; has lost her personal freedom to travel freely where and when she desires; and claim is made therefor.

48. As a result of the aforesaid injuries, Plaintiff C. Delores Tucker will incur medical expense; will undergo mental pain, suffering, and great inconvenience; loss of life's pleasures; fear for her life; lose her personal freedom to travel freely where and when she desires; and claim is made therefor.

49. As a result, Plaintiff C. Delores Tucker has been, and in the future will be, subject to great humiliation and embarrassment, and claim is made therefor.

50. Plaintiff's husband, William Tucker has as a result of his wife's injuries, suffered a loss of advice, companionship and consortium.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand judgement against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT I—INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

C. Delores Tucker and William Tucker v. MTS, Inc., t/a Tower Records, Interscope Inc., Interscope Records, Ted Field, James Iovine, Seagram Co., MCA Inc., Merrill Lynch, Death Row Records, Inc., Estate of Tupac Shakur, Afeni Shakur as Administratrix of the Estate of Tupac Shakur Time Warner, and David Kenner.

51. Paragraphs 1 through 50 of this Complaint are incorporated herein by reference.

52. Deceased Defendant Tupac Shakur's conduct as set forth above was extreme and outrageous.

53. As a direct and proximate result of Defendant Tupac Shakur's extreme and outrageous conduct as set forth above, Plaintiff C. Delores Tucker suffered severe emotional distress including but not limited to, feelings of fright, shock, humiliation, and outrage.

54. Defendants all participated in various ways, including the bringing of lawsuits, submitting Plaintiff Tucker to eleven days of depositions, the conceiving of the idea, creating the recording, the marketing/distributing and not recalling "All Eyez On Me" for the specific purpose of causing Plaintiff C. Delores Tucker to suffer extreme distress, fear for her life, and to lessen her resolve against "gangsta" rap.

55. Defendants' actions as set forth above constituted extreme and outrageous conduct that evidence a wanton dis-

regard for the safety and well-being of Mrs. Tucker sufficient to merit an award of punitive damages, and claim is made therefor.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand judgment against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT II—SLANDER

C. Delores Tucker and William Tucker v. MTS, Inc., t/a Tower Records, Interscope Inc., Interscope Records, Ted Field, James Iovine, Seagram Co., MCA Inc., Merrill Lynch, Death Row Records, Inc., Afeni Shakur as Administratrix of the Estate of Defendant Decedent Tupac Shakur

56. Paragraphs 1 through 55 of this Complaint are incorporated herein by reference.

57. Deceased Defendant Tupac Shakur's aforementioned lyrics referring to Plaintiff C. Delores Tucker in "All Eyez On Me" were false and defamatory when produced, marketed, distributed and sold.

58. Deceased Defendant Tupac Shakur's aforementioned defamatory lyrics were produced with malice, meaning that said lyrics were produced with knowledge that they were false.

59. Defendants other than Deceased Defendant Tupac Shakur knowingly participated in the creation, marketing, distribution, and sale of the slanderous recording "All Eyez On Me" and refused to recall same even though there was precedent involving anti-semitic lyrics by Michael Jackson.

60. As a result of the malicious lyrics, Plaintiff C. Delores Tucker's reputation has been subject to ridicule, insult, and her reputation damaged.

61. Defendants' actions as set forth above constituted extreme and outrageous conduct that evidence a wanton disregard for the safety and well-being of Mrs. Tucker sufficient to merit an award of punitive damages, and claim is made therefor.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand punitive judgement against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT III—INVASION OF PRIVACY

C. Delores Tucker and William Tucker v. MTS, Inc., t/a Tower Records, Interscope Inc., Interscope Records, Ted Field, James Iovine, Seagram Co., MCA Inc., Merrill Lynch, Death Row Records, Inc., Afeni Shakur as Administratrix of the Estate of Defendant Decedent Tupac Shakur

62. Paragraphs 1 through 61 of this Complaint are incorporated herein by reference.

63. Deceased Defendant Tupac Shakur's lyrics contained in the aforementioned recording "All Eyez On Me" were intentionally created, recorded, marketed/distributed, sold, and not recalled for the purpose of intruding upon the private affairs and concerns of Plaintiff C. Delores Tucker.

64. Defendants all appropriated to their own use and benefit, the name of C. Delores Tucker by creating, recording, marketing/distributing, selling and not recalling the aforementioned recording "All Eyez On Me.".

65. Defendants all participated in various ways in placing Plaintiff C. Delores Tucker before the public in a false light of a kind highly offensive to the reasonable man by creating, recording, marketing/distributing, selling and not recalling the aforementioned recording "All Eyez On Me."

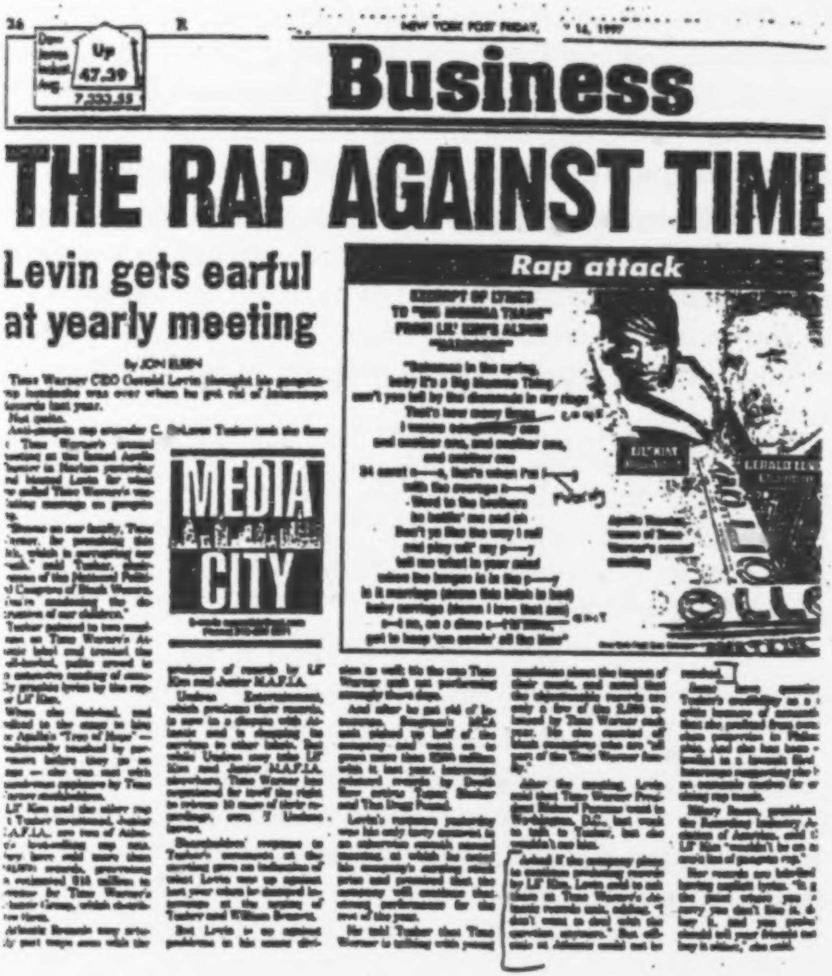
66. Defendants all participated in various ways in unreasonably and seriously interfering with Plaintiff C. Delores Tucker's interest in not having her name or likeness exhibited to the public by creating, recording, marketing/distributing, selling and not recalling the aforementioned recording "All Eyez On Me."

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand punitive judgement against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

ANGINO & ROVNER, P.C.
/s/Richard C. Angino, Esquire
Attorney I.D. No. 07140
4503 North Front Street
Harrisburg, PA 17110
Counsel for Plaintiff

Dated: 7/18/97

EXHIBIT "A"



NEW YORK POST FRIDAY, 14, 1997

Business

THE RAP AGAINST TIM

Levin gets earful at yearly meeting

by JON ELSEN

Rap attack

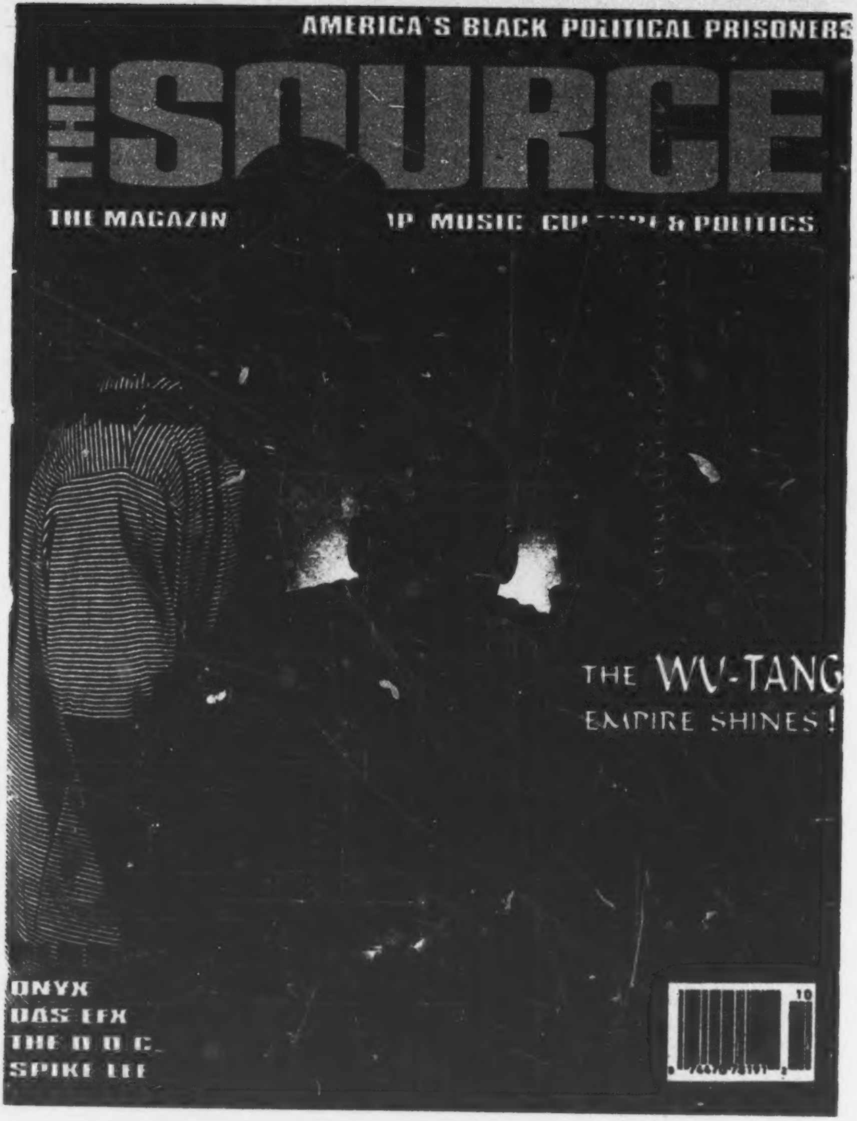
MEDIA CITY

Dow Jones Indust. Avg.
Up 47.39

EXHIBIT "B"

VIOLENCE, DRUGS, & SEXUALLY MISOGYNIST LYRICS DISTRIBUTED BY

Tupac Shakur Interscope	*Strictly 4 My Niggaz* 500,000 copies sold.	"Strugglin'–"I'd rather use my gun' cause I get my money quicker...got 'em in the frame...Bang! Bang!...blowing' muthfuckers to the moon.
Snoop Doggy Dogg Death Row/Interscope	*Doggystyle* More than 3 million sold (802,000) in one week. #1 pop album.	"Pump Pump" depicts Snoop arguing with another guy over a girl. After Snoop states, "We can handle this like some gentlemen or we can get into some gangsta shit." The other individual replies "What's up nigger? What's up." Next one hears gun shots and laughter and Snoop responds, "That's what's up." [Obviously indicating that problems are best resolved through the use of a weapon and murder, rather than communication.]
Snoop Doggy Dogg Death Row/Interscope	*Doggystyle* Over 3 million albums sold.	"G Funk Intro"–"We travel in packs and we do it from the back, how else can you get to the booty? We do it doggy style–all the while we do it doggy style. He fucked the fleas off the bitch; she shakes the ticks off his dick, and in her booty he buries his muthafuckin'bone."
noop Doggy Dogg eath Row/Interscope	*Doggystyle* #1 pop album sold more than 3million copies (802,000 in a week).	"Tha' Lunatic" –"Oh shit, jumped on man's dick. Hears he had a 12-inch. Now the bitch is lovesick. Who's the blame? The guy or the groupie...now she want to do me. Hoo–wee, this is the life–new bitch every night."
upac Shakur rscope	*2 Pacalypse Now* #13 R&B album	"Tha Shiznit"–"It's a 1.8.7 [California penal code for murder] on a muthafuckin' cop...so what the fuck does the nigger say? Gotta take a trip to the L.A. and serve your ass with a muthafuckin' AK[47]."


AMERICA'S BLACK POLITICAL PRISONERS
THE SOURCE
THE MAGAZIN
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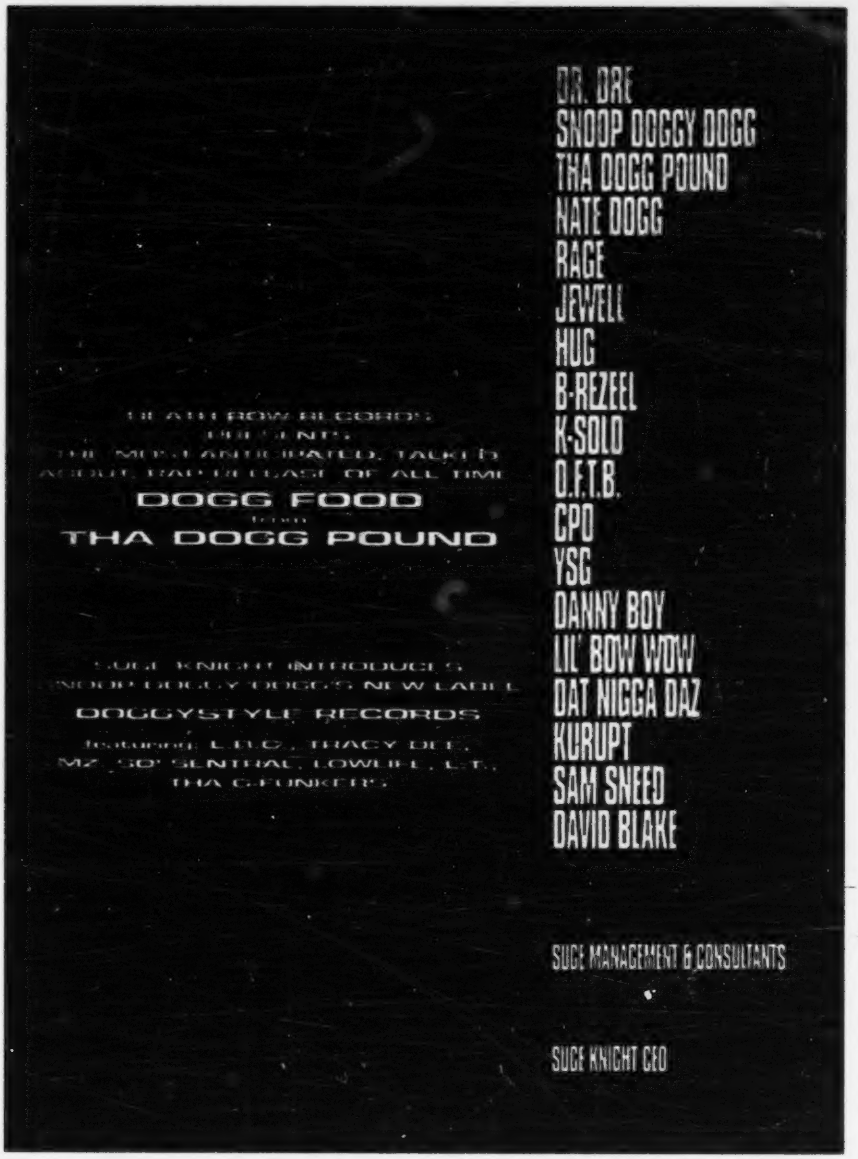
THE WU-TANG
EMPIRE SHINES!
ONYX
DAS EFX
THE D.O.C.
SPIKE LEE

Appendix



DEATH ROW RECORDS
PRESENTS
THE MOST ANTICIPATED, TALKED
ABOUT, RAP RELEASE OF ALL TIME

DOGG FOOD
from
THA DOGG POUND

SUGE KNIGHT INTRODUCES
SNOOP DOGGY DOGG'S NEW LABEL

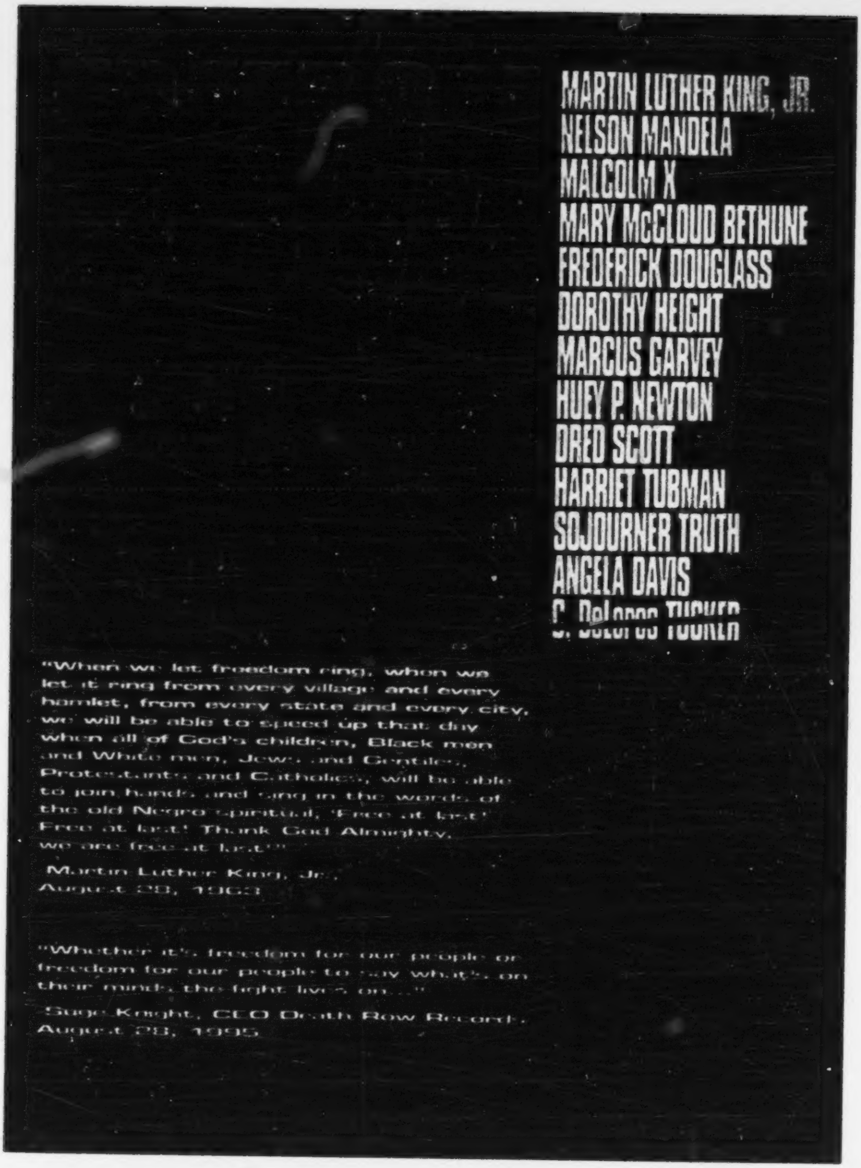
DOGGYSTYLE RECORDS

featuring L.B.C., TRACY DEE,
MZ. SO' SENTRAL, LOWLIFE, L.T.,
THA G-FUNKERS.

DR. DRE
SNOOP DOGGY DOGG
THA DOGG POUND
NATE DOGG
RAGE
JEWELL
HUG
B-REZEEL
K-SOLO
O.F.T.B.
CPO
YSG
DANNY BOY
LIL' BOW WOW
DAT NIGGA DAZ
KURUPT
SAM SNEED
DAVID BLAKE

SUGE MANAGEMENT & CONSULTANTS

SUGE KNIGHT CEO



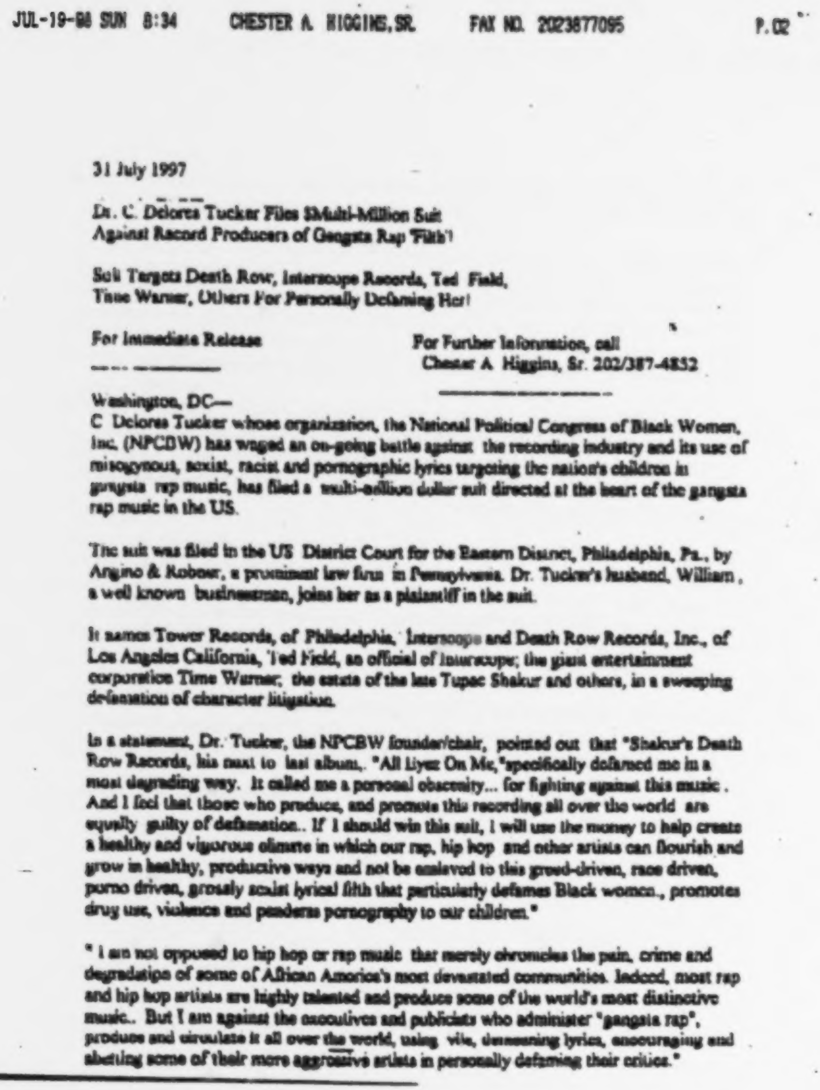
MARTIN LUTHER KING, JR.
NELSON MANDELA
MALCOLM X
MARY McCLOUD BETHUNE
FREDERICK DOUGLASS
DOROTHY HEIGHT
MARCUS GARVEY
HUEY P. NEWTON
DRED SCOTT
HARRIET TUBMAN
SOJOURNER TRUTH
ANGELA DAVIS
C. DeLores TUCKER

"When we let freedom ring, when we let it ring from every village and every hamlet, from every state and every city, we will be able to speed up that day when all of God's children, Black men and White men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual, 'Free at last! Free at last! Thank God Almighty, we are free at last!'"

Martin Luther King, Jr.
August 28, 1963

"Whether it's freedom for our people or freedom for our people to say what's on their minds, the fight lives on..."

Suge Knight, CEO Death Row Records
August 28, 1995



JUL-19-98 SUN 8:34 CHESTER A. HIGGINS,SR. FAX NO. 2023877095 P.02

31 July 1997

Dr. C. Delores Tucker Files $Multi-Million Suit
Against Record Producers of Gangsta Rap 'Filth'!

Suit Targets Death Row, Interscope Records, Ted Field,
Time Warner, Others For Personally Defaming Her!

For Immediate Release

For Further Information, call
Chester A. Higgins, Sr. 202/387-4852

Washington, DC—
C. Delores Tucker whose organization, the National Political Congress of Black Women, Inc. (NPCBW) has waged an on-going battle against the recording industry and its use of misogynous, sexist, racist and pornographic lyrics targeting the nation's children in gangsta rap music, has filed a multi-million dollar suit directed at the heart of the gangsta rap music in the US.

The suit was filed in the US District Court for the Eastern District, Philadelphia, Pa., by Angino & Rovner, a prominent law firm in Pennsylvania. Dr. Tucker's husband, William, a well known businessman, joins her as a plaintiff in the suit.

It names Tower Records, of Philadelphia, Interscope and Death Row Records, Inc., of Los Angeles California, Ted Field, an official of Interscope; the giant entertainment corporation Time Warner; the estate of the late Tupac Shakur and others, in a sweeping defamation of character litigation.

In a statement, Dr. Tucker, the NPCBW founder/chair, pointed out that "Shakur's Death Row Records, his next to last album,. "All Eyez On Me,"specifically defamed me in a most degrading way. It called me a personal obscenity... for fighting against this music. And I feel that those who produce, and promote this recording all over the world are equally guilty of defamation.. If I should win this suit, I will use the money to help create a healthy and vigorous climate in which our rap, hip hop and other artists can flourish and grow in healthy, productive ways and not be enslaved to this greed-driven, race driven, porno driven, grossly sexist lyrical filth that particularly defames Black women., promotes drug use, violence and panders pornography to our children."

" I am not opposed to hip hop or rap music that merely chronicles the pain, crime and degradation of some of African America's most devastated communities. Indeed, most rap and hip hop artists are highly talented and produce some of the world's most distinctive music.. But I am against the executives and publicists who administer "gangsta rap", produce and circulate it all over the world, using vile, demeaning lyrics, encouraging and abetting some of their more aggressive artists in personally defaming their critics."

"It is the gangstas in the suites, not those in the streets that I am after. They hide behind the First Amendment while abdicating their personal and corporate responsibility."

Acknowledging for the first time that she has received death threats during her long crusade against gangsta rap lyrics, and that some industry operatives have been prying into her private affairs "seeking dirt to demean me," she declared: "I am not unmindful of the risks to my life that I take in filing this action. However, I am even more concerned about the many, many young lives that have already been lost needlessly and the little children who will be lost if I do not say, as I am saying to this industry--"STOP NOW!"

In August, 1995. Interscope Records filed suit against Dr. Tucker in California charging her with inducement to "breach the contract between Death Row and Interscope Records." She vigorously denied the charge and asserted Interscope brought the charges in an attempt "shut me up and force me to discontinue" NPCBW's crusade against the industry's offensive gangsta rap lyrics.

She said since the suit was filed, she has been subjected to hours of depositions, suffered, surveillance and intimidation, emotional stress, received death threats, causing her "reasonable fear" for her life because violence and death play a central role in the gangsta rap arena, noting that two prominent murders have been reported since the unsolved murder in September 1996 of Tupac Shakur, all of which adversely affects her ability to travel freely without fear..

Dr. Tucker is former Secretary of State of the Commonwealth of Pennsylvania, a first at that time for a woman and a Black; and a former chair of the Democratic National Committee Black Caucus. She is a Board member of the NAACP, and the president of the Bethune DuBois Institute.

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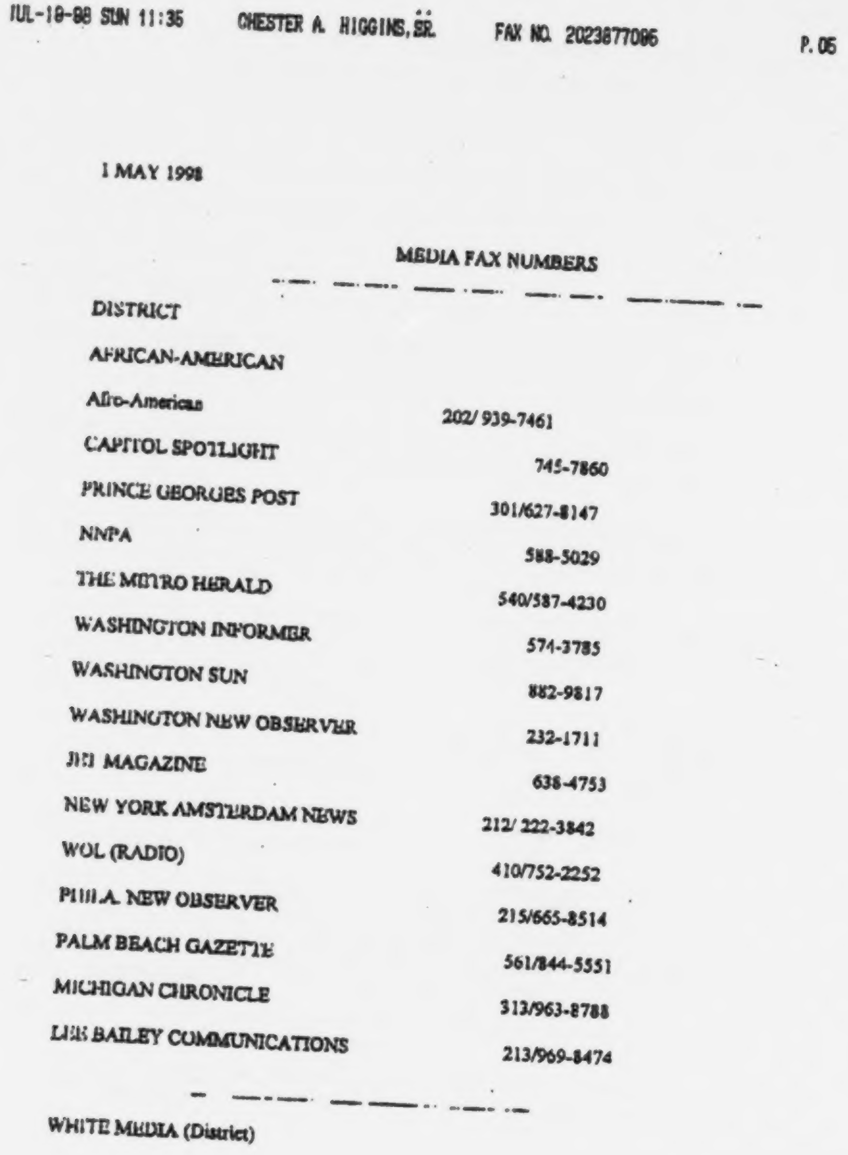

JUL-19-98 SUN 11:35 CHESTER A. HIGGINS, SR. FAX NO. 2023877086 P.05

1 MAY 1998

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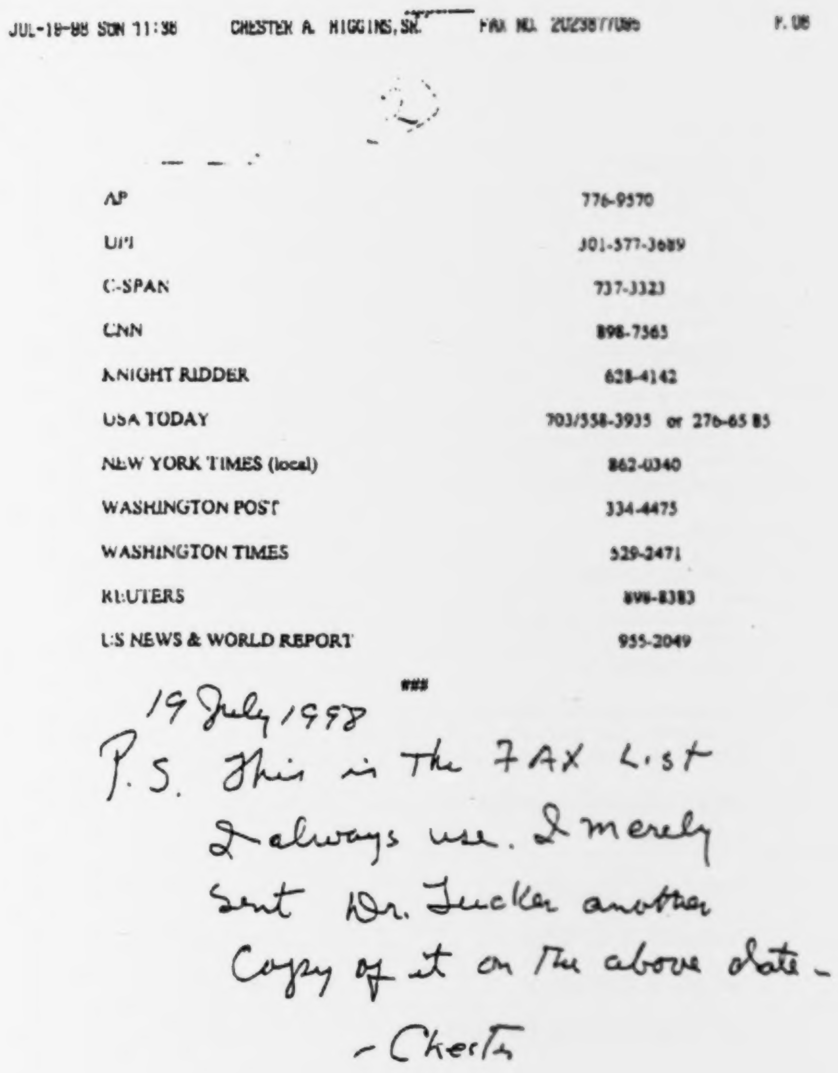

JUL-19-98 SUN 11:38 CHESTER A. HIGGINS, SR. FAX NO. 2023877085 P.08

AP	776-9570
UPI	301-577-3689
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CNN	898-7363
KNIGHT RIDDER	628-4142
USA TODAY	703/558-3935 or 276-65 85
NEW YORK TIMES (local)	862-0340
WASHINGTON POST	334-4475
WASHINGTON TIMES	529-2471
REUTERS	898-8383
US NEWS & WORLD REPORT	955-2049

###

19 July 1998

P.S. This is the FAX List I always use. I merely sent Dr. Tucker another copy of it on the above date –

– Chester

68157 STORY of Level 1 printed in FULL format.

Copyright 1997 Times Mirror Company
Los Angeles Times

August 1, 1997, Friday, Home Edition

SECTION: Business; Part D; Page 1; Financial Desk

LENGTH: 841 words

HEADLINE: COMPANY TOWN;
RAP CRITIC SUES SHAKUR'S ESTATE FOR DEFAMATION

BYLINE: CHUCK PHILLIPS, TIMES STAFF WRITER

BODY:

C. Delores Tucker, who built a national reputation criticizing the violent and lewd lyrics of gangsta rap, has found a new and personal objection to rap lyrics.

Tucker, in a lawsuit filed this week in Philadelphia federal court, contends that Tupac Shakur's estate should pay her $ 10 million because lyrics on a 1996 album made derogatory references to her. Among other things, the lawsuit says, the anguish caused by those lyrics cut down on her sex life with her husband.

According to the lawsuit, defamatory lyrics contained on Shakur's "All Eyez on Me"--a double CD that has sold nearly 5 million copies--have caused Tucker to undergo "great humiliation, mental pain and suffering." The lawsuit contends that Tucker's injuries have caused her husband, William, to "suffer a loss of advice, companionship and consortium."

Tucker, who became a national figure three years ago because of her outspoken criticism of rap music, could not be reached for comment. Neither could Afeni Shakur, who is named as a defendant in the lawsuit as administrator of her son's estate.

Richard Fischbein, a New York attorney who is co-administrator of the estate, said he is baffled by the allegations.

"It's hard for me to conceive how these lyrics could destroy her sex life," Fischbein said. "But we can only wait for the proof to be revealed in court."

In addition to Afeni Shakur, the lawsuit names Death Row Records, Interscope Records, Time Warner, Seagram Co., Tower Records and seven other individuals and entities as defendants.

The lawsuit accuses Shakur's estate and the others of slander, infliction of emotional distress and invasion of privacy.

According to the lawsuit, Tucker and her husband take particular offense to "lewd" and "indecent" references to her in two songs entitled "Wonda Why They

Call U Bytch" and "How Do U Want It." In a song that the lawsuit says alludes to prostitution, Shakur's lyrics state: "Got your legs up trying to get rich. Keep your head up and your legs closed, dear Ms. C. Delores Tucker."

Tucker, head of the Washington-based National Political Congress of Black Women, is described in the lawsuit as a "moral and religious daughter of a well-known, respected Philadelphia minister."

Tucker and former U.S. drug policy advisor William Bennett launched an anti-rap campaign in 1994 that pressured Time Warner to dump Interscope, the Westwood company that distributes such Death Row artists as Shakur, who was murdered in September, and Snoop Doggy Dogg.

The two rap critics have also criticized Seagram-owned Universal, Bertelsmann, Sony Corp., Thorn-EMI Music and PolyGram for releasing "pornographic smut" music.

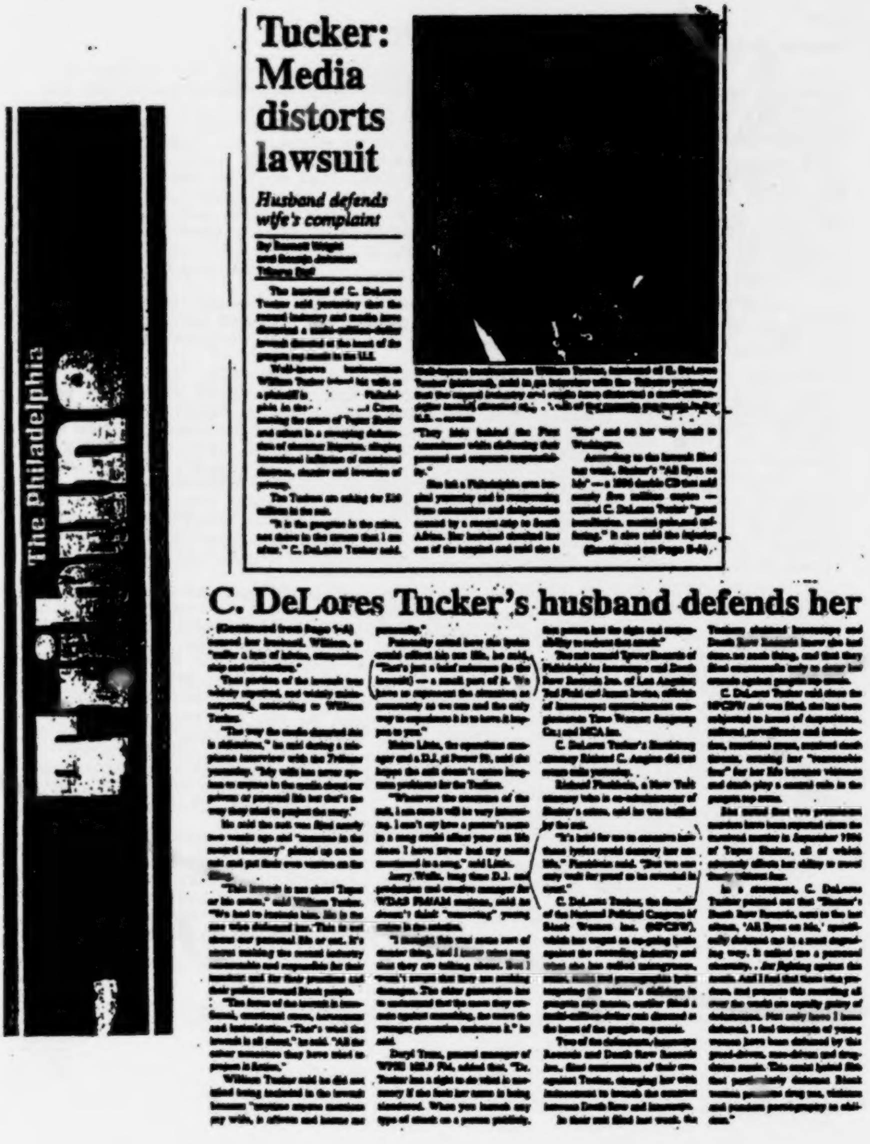
Tucker, whose credibility has been challenged by accusations that she once profited from ownership of slum properties in Philadelphia, has been entangled in a legal battle with Death Row and Interscope for the last two years.

Civil lawsuits filed in August 1995 by Death Row and Interscope accused Tucker of contractual interference and suggested she had an economic motive for criticizing rap.

Tucker's lawsuit contends that Shakur's lyrics have "held her up as an object of scorn to more than 5 million people, including children in Philadelphia and elsewhere."

LANGUAGE: English

LOAD-DATE: January 29, 1998

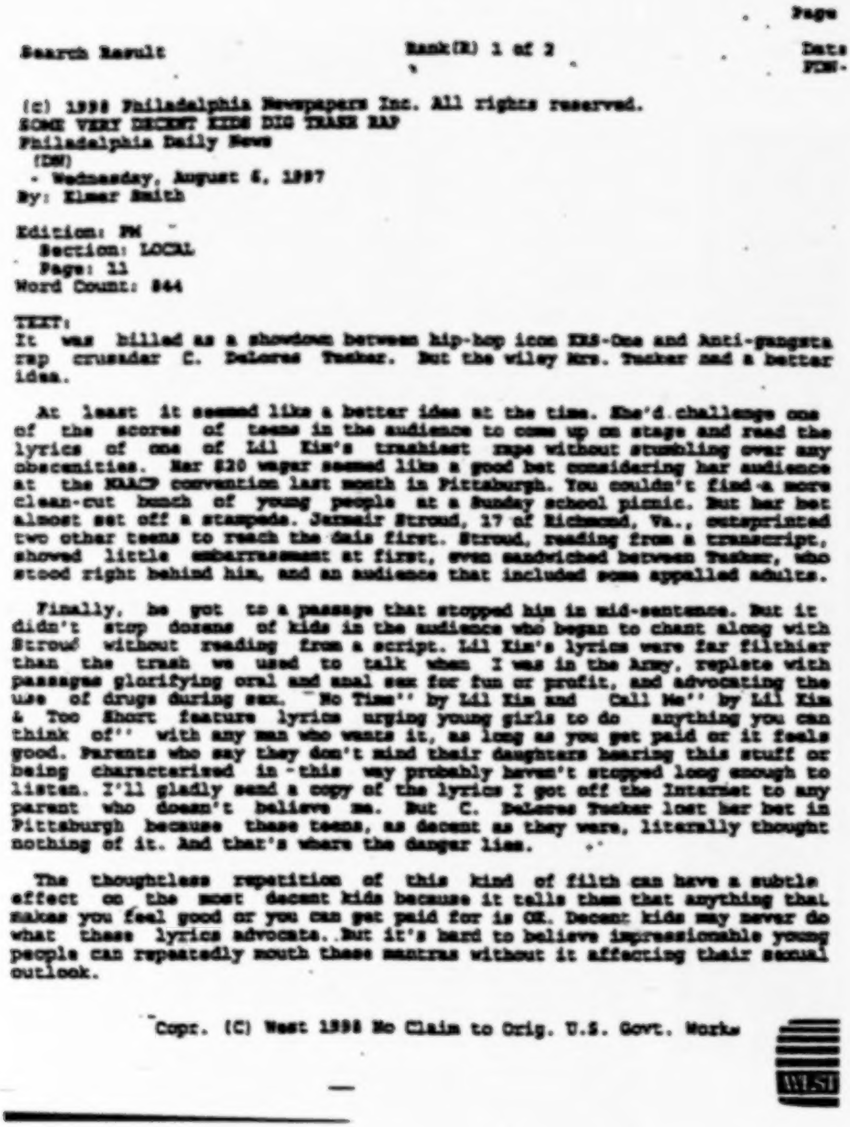


The Philadelphia Tribune

Tucker: Media distorts lawsuit

Husband defends wife's complaint

C. DeLores Tucker's husband defends her



Page

Search Result   Rank(R) 1 of 2   Date
FIN-

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SOME VERY DECENT KIDS DIG TRASH RAP
Philadelphia Daily News
(DN)
- Wednesday, August 6, 1997
By: Elmer Smith

Edition: FM
Section: LOCAL
Page: 11
Word Count: 844

TEXT:
It was billed as a showdown between hip-hop icon KRS-One and Anti-gangsta rap crusader C. DeLores Tucker. But the wiley Mrs. Tucker had a better idea.

At least it seemed like a better idea at the time. She'd challenge one of the scores of teens in the audience to come up on stage and read the lyrics of one of Lil Kim's trashiest raps without stumbling over any obscenities. Her $20 wager seemed like a good bet considering her audience at the NAACP convention last month in Pittsburgh. You couldn't find a more clean-cut bunch of young people at a Sunday school picnic. But her bet almost set off a stampede. Jermair Stroud, 17 of Richmond, Va., outsprinted two other teens to reach the dais first. Stroud, reading from a transcript, showed little embarrassment at first, even sandwiched between Tucker, who stood right behind him, and an audience that included some appalled adults.

Finally, he got to a passage that stopped him in mid-sentence. But it didn't stop dozens of kids in the audience who began to chant along with Stroud without reading from a script. Lil Kim's lyrics were far filthier than the trash we used to talk when I was in the Army, replete with passages glorifying oral and anal sex for fun or profit, and advocating the use of drugs during sex. ``No Time'' by Lil Kim and ``Call Me'' by Lil Kim & Too Short feature lyrics urging young girls to do ``anything you can think of'' with any man who wants it, as long as you get paid or it feels good. Parents who say they don't mind their daughters hearing this stuff or being characterized in this way probably haven't stopped long enough to listen. I'll gladly send a copy of the lyrics I got off the Internet to any parent who doesn't believe me. But C. DeLores Tucker lost her bet in Pittsburgh because these teens, as decent as they were, literally thought nothing of it. And that's where the danger lies.

The thoughtless repetition of this kind of filth can have a subtle effect on the most decent kids because it tells them that anything that makes you feel good or you can get paid for is OK. Decent kids may never do what these lyrics advocate. But it's hard to believe impressionable young people can repeatedly mouth these mantras without it affecting their sexual outlook.

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I happen to like most rap. And I am not for banning anything, not even Lil Kim's degrading garbage or the more offensive glorification of violence by a relatively few hard-core gangsta rappers. But as long as seemingly respectable firms like Seagrams and Sony pocket the profits, I support C. Delores Tucker or little Tommy Tucker or anyone else who has the guts to stand up to them. But I also appreciate how some people felt betrayed when she filed a $10 million suit that has trivialized her and her movement. For a week now, even some of her most consistent supporters have been questioning her motives and snickering over the suit's allegation that her sex life has been ruined by a couple of Tupac Shakur raps. Bill Tucker told me his wife was too stressed out over the controversy to comment yesterday. But he had plenty to say.

Everybody wants to focus on that, as if this is about sex or money,'' said Tucker. That's the spin out of Hollywood. But it's a total distortion.''

First off the suit is not just against Tupac. It's against Seagrams and MCA and Death Row and everybody else involved in exploiting these artists. She's been at this for three years. If she was in it for money, she has had plenty of chances. Every time she meets with these big companies, the first thing they ask her is what she wants.

. . . If any money comes of it, my wife has always said she wants to do something to undo the harm this has caused, especially to the image of young black men. It's not about money. My wife hasn't had a paycheck since 1977 (when she was Pennsylvania Commonwealth secretary). But she gave $12,000 to help save the Martin Luther King Center.''

On the more delicate issue of how the insults on two Tupac Shakur rap releases have affected their sex life, Tucker said, You live through something like this, it affects everything about you.

These raps are literally calling her a prostitute, describing her with her legs up in the air. When she's in a train station, a record store or anywhere, we see people bunch each other and point.''

That may be. But I would have felt better if the suit had been filed on behalf of the movement she has helped spawn or if she had issued a statement saying what she'd do with the money. Instead the focus is back on her. And those who ignored the cause because they didn't trust her have found a convenient excuse.

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DESCRIPTORS: OPINION MUSIC

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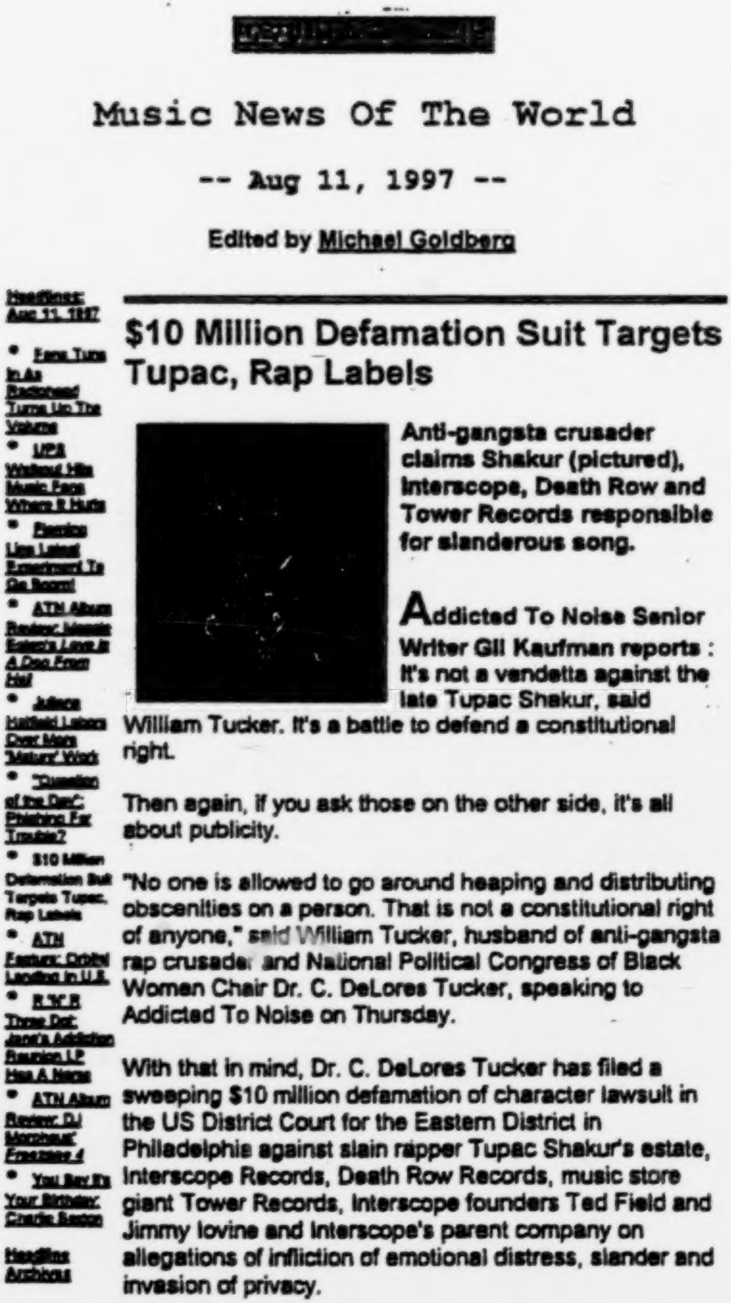

Music News Of The World

-- Aug 11, 1997 --

Edited by Michael Goldberg

Headlines: Aug 11, 1997

- Fans Turn In As Radiohead Turns Up The Volume
- UPS Walkout Hits Music Fans Where It Hurts
- [illegible] Lines Latest Experiment To Go Boom!
- ATN Album Review: Maggie Estep's *Love Is A Dog From Hell*
- Juliana Hatfield Labors Over More 'Mature' Work
- "Question of the Day": Phishing For Trouble?
- $10 Million Defamation Suit Targets Tupac, Rap Labels
- ATN Feature: Orbital Landing In U.S.
- R'N'R Three Dot: Jane's Addiction Reunion LP Has A Name
- ATN Album Review: DJ Morpheus' *Freezone 4*
- You Say It's Your Birthday: Charlie Sexton

Headline Archives

$10 Million Defamation Suit Targets Tupac, Rap Labels

Anti-gangsta crusader claims Shakur (pictured), Interscope, Death Row and Tower Records responsible for slanderous song.

Addicted To Noise Senior Writer Gil Kaufman reports : It's not a vendetta against the late Tupac Shakur, said William Tucker. It's a battle to defend a constitutional right.

Then again, if you ask those on the other side, it's all about publicity.

"No one is allowed to go around heaping and distributing obscenities on a person. That is not a constitutional right of anyone," said William Tucker, husband of anti-gangsta rap crusader and National Political Congress of Black Women Chair Dr. C. DeLores Tucker, speaking to Addicted To Noise on Thursday.

With that in mind, Dr. C. DeLores Tucker has filed a sweeping $10 million defamation of character lawsuit in the US District Court for the Eastern District in Philadelphia against slain rapper Tupac Shakur's estate, Interscope Records, Death Row Records, music store giant Tower Records, Interscope founders Ted Field and Jimmy Iovine and Interscope's parent company on allegations of infliction of emotional distress, slander and invasion of privacy.

"This suit isn't about Tupac," said William Tucker, reacting to widespread reports that focused on the portion of the suit targeting the slain gangsta rapper's estate. A statement released by Tucker's office refers to lyrics from Shakur's 1996 double-CD *All Eyez on Me* that she said defamed her "in a most degrading way."

"People have focused on that one part of the release," her husband added, referring to charges that the alleged references to his wife on the album have put a strain on the couple's sexual relationship. "But this is about (Death Row distributor) MCA, (parent company) Seagrams and Tower Records because they peddle this filth to children."

Dr. Tucker was unavailable for comment due to a recent illness, her husband said.

In the song "Wonda Why They Call U Bytch," Shakur raps, "Got your legs up trying to get rich/ Keep your head up and your legs closed/ Dear Ms. C. DeLores Tucker" as well as similarly explicit lyrics in the song "How Do U Want It."

Richard Fischbein, legal counsel for the Shakur estate, told the *Los Angeles Times* last week, "It's hard for me to conceive how these lyrics could destroy her sex life. But we can only wait for the proof to be revealed in court."

Tucker, along with former U.S. Education Secretary William Bennett, have waged war on gangsta rap for the past three years, attacking the popular style for what they say is its detrimental effect on children and its defamatory treatment of women. Death Row has been a repeated target of Tucker- and Bennett-led press conferences based on the label's self-perpetuated image as the home of gangsta rap.

"In my non-legal opinion it's an easy lawsuit to file, but to prevail would be unprecedented," said Danny Goldberg, President and soon-to-be-named chairman of Mercury Records, President of the ACLU (American Civil Liberties Union) Foundation of Southern California, and longtime advocate on behalf of free speech issues. Goldberg dismissed the suit as a publicity device. "People are entitled to their feelings about music, but when they use pressure to prevent the natural marketplace from allowing the public to say what they like, I'm against that because I think it contravenes an atmosphere where free speech can flourish."

Goldberg said that, while suits such as Tucker's are not illegal, they are nevertheless "just wrong, which is the same way I would feel if someone tried to censor her (Tucker). That's equally wrong."

Grace Bergen, legal counsel for MTS Inc., the parent company of Tower Records said she was aware of the suit but could not elaborate on it, since MTS had not been served with papers yet. "As a retailer, we believe in free speech and people's right to it," said Bergen. "Until the court makes a judgment that these products are illegal, some people believe that seeing them on the shelf will get the controversy out there, which is the purpose of free speech."

Representatives for Death Row and Interscope could not be reached for comment.

For his part, William Tucker failed to see any irony in the filing of a multi-million dollar lawsuit seeking damages from a company that his wife has spent years battling.. This suit is focused on those responsible for distributing and promoting this music around the world, Tucker argued. "Everywhere my wife goes in an airport or a restaurant," he said, "you see young kids touching each other, punching each other, turning around looking at her, sniggling. Of course she feels they're talking about [Shakur] calling her those names and referring to her as a prostitute and this has caused her a lot of humiliation and anguish."

Tucker re-iterated a quote from his wife's press statement, saying, "It's the gangstas in the suites, not the gangstas in the streets that we're after."

Additionally, the statement alleges that, since the suit was filed last month, Tucker has been subject to hours of depositions, suffered surveillance and intimidation, emotional stress, received death threats, causing her "reasonable fear" for her life "because violence and death play a central role in the gangsta rap arena." On the advice of counsel, William Tucker would not comment on those allegations.

"Here we're dealing with people who are involved in creating a culture of real violence," he said, referring to the defendants in the suit. "And two people have died already."

usic News of the World (Lo-Fi) http://www.addict.com/[illegible]

Shakur and fellow gangsta rapper Notorious B.I.G. (Christopher Wallace) were each gunned-down in separate but still-unsolved drive-by shootings over the past year.

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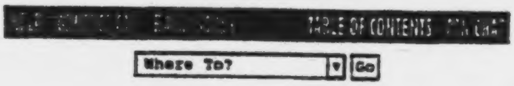

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION

NO. 97-CV-4717

C. DELORES TUCKER and
WILLIAM TUCKER, her husband

vs

RICHARD FISCHBEIN as Co-Administrator and
AFENI SHAKUR as Co-Administratrix of the
Estate of TUPAC SHAKUR

Videotape deposition of RICHARD C. ANGINO, ESQUIRE, taken at the offices of ANGINO & ROVNER, P.C., 4503 North Front Street, Harrisburg, Pennsylvania, on Wednesday, July 22, 1998, at 9:52 a.m., before Julie M. Zanaras, a Federally Approved Reporter, Registered Professional Reporter, CSR and Notary Public.

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REGISTERED PROFESSIONAL REPORTERS
1710-12 Locust Street
Philadelphia, Pennsylvania 19103
(215) 790-7857

What about the 3rd and 4th?

A. I think I went on the 3rd.

Q. You think you went on the 3rd.

A. I think I went on the 3rd.

Q. Okay. So you would have been out of town that whole week then. And I believe, tell me if I misrecollect this. What you indicated to me before, I think, was that you don't remember talking to Mr. or Mrs. Tucker about this matter any time in August?

A. That's right.

Q. And you don't remember talking to Mr. Waters about it any time, other than this conversation on the 3rd or the 4th?

A. The only one that is clear is that conversation.

Q. Fair enough. Fair enough. In your earlier response, you had said that you said to Mr. Waters, Mr. and Mrs. Tucker are public figures. And then you explained that what you meant with respect to Mr. Tucker was that he, at least, did have access to the channels of communication; is that right?

A. Yes. Being—being married to Mrs. Tucker is what I'm referring to.

Q. In other words, you—you—you knew that the press would take an interest in this lawsuit, and that they would continue to take an interest in this lawsuit?

A. You're using the word—no, I would suspect that they would.

Q. Expect?

A. Expect. Expect would be a better word, yes. But I have to say that when I filed the Complaint, I didn't alert anybody that I was filing a Complaint.

Q. It—it got attention on its own, given who these people were and given the nature of the claim, right?

A. It did.

Q. And in retrospect, it's not really surprising, given the figures involved in both sides of the case, right?

A. That's right.

Q. I want to go through some additional exhibits. Exhibit-14 and Exhibit-15 are two Associated Press stories, dated August 1, 1997. I just want to ask you whether you recall seeing these stories at the time that they came out?

A. No. The only story I remember seeing was that one that appeared in the Philadelphia—and that was given to me, rather than anything else. That one there. That's the only one I think I saw.

Q. You're referring to Exhibit-16.

MR. BAINE: Let's show Mr. Angino

Number-16.

THE WITNESS: My recollection is that Exhibit-16 got to me through Paul Waters in some way. That's my recollection.

BY MR. BAINE:

Q. You don't think you saw it then on August 2nd, the date that it was published.

A. No.

Q. Sometime later?

A. No.

Q. Would you have seen it sometime within the next couple of days or some period of weeks thereafter?

A. I'm going to guess. I don't think it was sent to me down in South Carolina where I was.

Q. So you think you saw it sometime after you returned from South Carolina?

A. That would be my guess.

Q. But you don't have a recollection of exactly how Mr. Waters got this to you?

A. No. I can say under oath that the only thing I knew about this was what Paul Waters transmitted by way of that telephone call.

Q. Did he refer in that telephone call to any specific news article?

A. I don't think so. He may have said the Philadelphia, but I mean, you know—again, I don't know.

Q. Did you know as of August 3rd or 4th when this conversation took place, that Mrs. Tucker had been in the hospital?

A. You know, I don't think I did know that she was in the hospital.

Q. So then you—you would not have known what has been testified to in previous depositions, about Mrs. Tucker's being in the hospital, being shown an article, having some kind of relapse. You didn't know about that at that time?

A. I didn't know about that, I think, up until relatively recently. I would say more as part of this discovery process, rather than before.

Q. Up until, let's say September 1st, 1997, which would have been after the Newsweek article, how many times had you met face-to-face with Mr. or Mrs. Tucker?

A. I'm going to guess a couple.

Q. Would it be fair to say that you really did not have—strike that.

Would it be fair to say that—that Mr. Waters was the person who had a long-standing relationship with the Tuckers, and that you, yourself, didn't know them very well at that point?

A. I would say you're accurate.

Q. Was it your understanding that Mr. Waters was a—was a close personal friend of the Tuckers?

A. Yes. I said that on the record

Q. But you knew that back then?

A. Certainly. I knew from the time they first came in that the relationship went back to college, when Mr. Waters and Mr. Tucker went to college together.

Q. Let me ask you to look at a couple of other exhibits that we've marked. Exhibit-17 is an article in the Philadelphia Daily News, dated August 6th, 1997. This would have been published during the period of time that you were in South Carolina. Do you remember seeing this article at any time prior to the time that—that it was used as an exhibit in these proceedings?

A. No.

Q. Same thing with Exhibit-18. This is an article in The Philadelphia Tribune, dated August 5th, 1997. Did you ever see that article prior to the time that it was marked as an exhibit in these proceedings?

A. No. The interesting thing about it though, it talks about trying, I think, to call me. And you'll see there were two calls that I returned to them.

Q. Well, now you're talking about Exhibit-18?

A. I think so. Philadelphia Tribune. I called The Philadelphia Tribune two times on August the 4th.

Q. From South Carolina?

A. From South Carolina.

Q. Did you talk to anybody?

A. I spoke to someone in the news room. I don't know who it was. And that's where I found it a little upsetting is, I see the article now says they tried to reach me.

Q. Okay. You're referring to a document that you produced in discovery, a memo to the Tucker file and RCA?

A. Right.

Q. Dated July 13th, 1998.

A. Right.

Q. Okay. You've produced that memo to us actually, in two forms, one with some handwriting on it, one without handwriting on it. Let me mark these as an exhibit.

MR. BAINE: Let's give these Exhibit Number-44.

(Two pages of Memo to Tucker File and RCA dated July 13, 1998 was marked as Angino-44 for identification.)

BY MR. BAINE:

Q. Mr. Angino, did you prepare an Exhibit Number-44 on or about July 13th, 1998?

A. A paralegal from our office prepared it.

Q. And did she prepare it by reviewing your telephone records?

A. Yes.

Q. And then did you help her figure out who the people were who were being called?

A. I asked her to call each of these entities and talk to them. So the notes you see are her notes.

Q. The handwritten notes that are on the second page of this exhibit are her notes?

A. They're her notes. The typewritten portion is hers, too. This is almost a document totally generated by a paralegal.

Q. And did you ask her to generate this document?

A. Yes.

Q. What instructions did you give her?

A. I said contact—once we had the phone numbers of—I think my wife Alice got the phone numbers from our South Carolina residence, and we gave her the phone numbers, and I said call these numbers, find out who they are. We didn't even know who they were, first of all.

Q. All right. okay.

A. And once you find out who they are, here was the instructions. Number one, do they have a record of the call.

Number two, did they make any notes of the phone call. Number three, did they—did it generate an article. And we asked them to get me who—whom I talked to, what I said, and what was the article.

Q. Okay. So, for example, the second item, which is Philadelphia Tribune, indicates that you made two phone calls to the Tribune on August 4th, at 12:30 and 4:06—

A. Right.

Q.—one minute and four minutes.

A. Right.

Q. And then the name of Irv Randolph appears here.

A. I suspect that Gwen, who is the paralegal, talked to Irv Randolph, who's the editor, and said that I spoke to someone in the news room.

Q. Your paralegal said that?

A. Yes.

Q. Was she able to confirm who it was you spoke to?

A. You—you see what it is. You spoke to someone in news room. It doesn't say who that someone was.

Q. Did Irv Randolph confirm that?

A. Yes. Because I mean, he—

Q. Or—or—or was that just your paralegal writing that down that was what she figured, that you must have spoken to someone, but she didn't know who?

A. Well, my understanding of my paralegal is what she is meaning here is she talked to Irv Randolph, and he said I spoke to someone in the news room.

Q. And—and the notes on the side say 7/16 call tomorrow, 7/17 left detailed message may be—

A. May be off site.

Q. Maybe something off site. Maybe archives off site?

A. Archived outside yes.

Q. In other words, there may be some record of a call in archives—

A. Right.

Q.—off site, that's how you understand that?

A. Right. I wanted to get everything that I could.

Q. Do you have a recollection of speaking to someone at The Philadelphia Tribune?

A. I remember during the first week speaking to a number of people. Specifically Philadelphia Tribune, no.

Q. Okay. Do you have a recollection of speaking to anybody at WWDB?

A. Specifically, no.

Q. Do you have a recollection of speaking to anybody at the Billboard Bulletin?

A. A little bit of a recollection of this Carolyn Herwitz—Horwitz. I mean, you know—the woman, you know—some conversations stick out more than others, and I have some recollection. It looks like it was a nine minute conversation, so that we probably—but if you ask me what did you say specifically with her during that nine minutes—

Q. I just asked whether you had any recollection of talking to her?

A. Okay. All right.

Q. And—and you do remember talking to Carolyn Horwitz?

A. I think so.

Q. How does the name Carolyn Horwitz get on this piece of paper? Is that some name that you gave to your paralegal or is that something—

A. No. She would have gotten that. The reason that I do have some recollection is, this used to be an old Jewish firm. It was called Hurwitz Klein, Benjamin and—Hurwitz, Klein, Myers and Benjamin. So Hurwitz—and the spelling of that was H-u-r-w-i-t-z, was the senior of this law firm. So Hurwitz—

Q. You mean Angino & Rovner?

A. Yeah. What's now Angino & Rovner really goes back to 1928 as the Hurwitz firm.

Q. Okay. All right. The notation here says Carolyn, I guess, received faxed copy of article attached. Looks like someone at the Bulletin faxed your paralegal a copy of an article, right?

A. Right. And you have it.

Q. Okay. And the notation next to WWDB says per Chad Wilkinson, tapes are discarded after three months. They have nothing on the interview, I guess is what it says. So in other words, they were not able to confirm that you talked to anybody, right?

A. Right.

Q. Does the name Chad Wilkinson mean anything to you?

A. No.

Q. Moving down to the Philadelphia Weekly, there's a notation that Tim Whitaker is finding and faxing something. Did—did Tim Whitaker find and fax something to you?

A. I think—yeah, I think you got the two articles that I produced for you today. They were two editorials that they did.

Q. Produced today?

A. They were circulated when we started this morning.

– Q. Okay. I don't think I saw them before. We'll look at them in a second.

A. You know, I'm producing things as I'm getting them, you know.

Q. Okay. But you don't know to whom you spoke at the Philadelphia Weekly?

A. No.

Q. Okay. The Philadelphia—you indicated earlier that you thought that The Philadelphia Tribune article made some reference there to being unable to reach you.

A. Right.

Q. Is that in—can you show me where that is?

A. All right.

Q. I guess up here it says on page 3, maybe this helps. "C. DeLores Tucker's Harrisburg attorney Richard C. Angino did not return calls yesterday."

A. Yes.

Q. Do you see that?

A. Right. Obviously yesterday was the 4th, which is when I returned two calls. Didn't make any sense.

Q. It would seem highly likely, would you agree, that although you placed two phone calls, it doesn't look like you had a substantive conversation.

A. Well, one of them was four minutes, I think.

Q. That's right. One minute and four minutes.

A. That sounds like a substantive conversation to me.

Q. But you don't—you don't have a recollection of it?

A. I mean, I—I'm sure I talked to people. I was trying to dispel this sex business, so...

Q. That's not what I said. But you don't have a recollection of talking to someone at The Philadelphia Tribune?

A. No.

Q. Did you ever see the press release that was issued by—on behalf of Mrs. Tucker's organization on August 21st, 1997, which we've marked as Exhibit-19?

A. I can't honestly say if I did, when I did or the circumstances of it.

Q. Okay.

MR. BAINE: Let—let's show the exhibit to the witness for a second. Nineteen.

THE WITNESS: It would be along the lines of what I asked them to do.

BY MR. BAINE:

Q. Do you have that? Okay. Do you see the second to the last paragraph on the first page, where there's a statement about the media jumping on "the so-called sex part in the suit"—

A. Yes.

Q. —"that called attention to loss of consortium." And then it says, "Which was put in there by my husband, Bill, not by me, she added, obviously nettled."

A. Right.

Q. That seems to me to be something that you would probably remember reading, if you had read it at the time. Do you remember reading it back in August of '97?

A. I'm pretty sure I didn't read it in August of '97.

Q. Did you have any understanding, recognizing you hadn't—that you didn't speak to Mrs. Tucker in August, did you have any understanding, at any time, that Mrs. Tucker was at all annoyed or nettled or bothered by the fact that this loss of consortium claim had been put in the Complaint?

A. Mrs. Tucker was upset at what the media did, and they used to do what they did, to loss of consortium count. So if you follow that logic, if that count hadn't been there, they wouldn't have done whatever it is they did. You know, I'm thinking, logic, lay person, what does a lay person say. Look, this media is talking about sex. How in the heck did they come up with this particular thing. And everybody is asking her about consortium. And this is a lay person responding to him. I didn't even have anything to do with this consortium count. My husband put it in, you know.

Q. But—but did you understand that that—did you understand back in August and September that that was her feeling, that she was annoyed that it had ever been included in the first place?

A. She was annoyed at anything that was in that Complaint that could have given the media a kernel to misrepresent what they did.

Q. And at some point, did she ever have a conversation with you about why anybody ever put that in there?

A. No. She never—never said that.

Q. Did—to your knowledge, did she have a conversation to that effect with Mr. Waters?

A. How would I know?

Q. He could have told you.

A. I don't know.

Q. And you don't know whether she had a conversation to that effect with her husband?

A. I don't know that. I can honestly tell you that up until this moment, we've never talked about their private lives in any way, shape or form.

Q. And Exhibit-20, Mr. Angino, is a—a series of articles, all of which have been marked in one way or another before. I'll just represent to you that these articles run from August 1st through August 17th, 1997, and they all report on the allegations of the Complaint. And my question really is whether you had seen any of these before. I understood you to say a moment ago, that the only story you remember seeing in August of '97 was the Philadelphia Daily News story. And so I take it from that, that you really don't remember, at the time, seeing any of these other stories?

A. You've answered your question.

Q. Now, up until the time that you spoke to Mr. Roberts—we're going to talk about that in a second. Before that, are you able to identify any reporters that you recall speaking to about this lawsuit?

A. Can't identify by name. I recall the conversation with Mrs. Horwitz or Ms. Horwitz or whatever she would be. And I recall another conversation with another woman reporter, that occurred from my car phone, because the woman specifically said are you calling me from a car phone. And I said yes, I want to talk to you about this. And I think it was—my recollection and another similarly lengthy kind of conversation that—so the two that I have specific recollection of is Ms. Horwitz and the one from the car phone. Those are the two.

But I can assure you, there were, at least, I would say, somewhere between six and ten or 12 conversations, as best I can guess it, during this time period. The ones that I have a record of because we called out, and I may have gotten other calls where they called in, you know, and I don't have a record of. What we're attempting to do now is to—we're about to start a lawsuit, and part of the discovery process is going to be to try to get the records of everybody who wrote these articles here, to find out if they talked to me.

Q. Okay. But Exhibit-44, which contains some notations concerning calls to four different media outlets, those are the calls that you made from your South Carolina residence to the press, as far as you know?

A. As far as I know.

Q. Do you have any comparable list of calls that you made from your Harrisburg office or your home or your car phone?

A. You have whatever we have. And the only thing that seems to show up there is the calls to Johnnie Roberts' office.

Q. That wasn't my question. You did produce a number of other telephone records, and I take it you've reviewed those, and you're not able to identify any other phone calls to reporters on the other records you produced?

A. Right.

Q. And you don't have any other records?

A. The phone—the phone records we're trying to get from the car. Incredibly, these car phone records are archived somewhere, and we're having trouble getting them.

Q. So you're trying to get your car phone records, but unless and until those records show up, the only records that you have of phone calls to reporters, would be the Johnnie Roberts calls, and the four that are referred to in Exhibit-44?

A. As best as I—we have been able to discover at this point in time. You know, I'm saying that, because I haven't personally called all the numbers that are there, but I'm assuming that if there was some kind of station or some kind of newspaper, my paralegal would have brought that to my attention. She prepared the chronology that you have there, and it indicates all of our activity.

Q. And you—I don't think you've produced any home telephone records, and I take it it's because that doesn't reflect any conversations with reporters?

A. If it did, you would have had them.

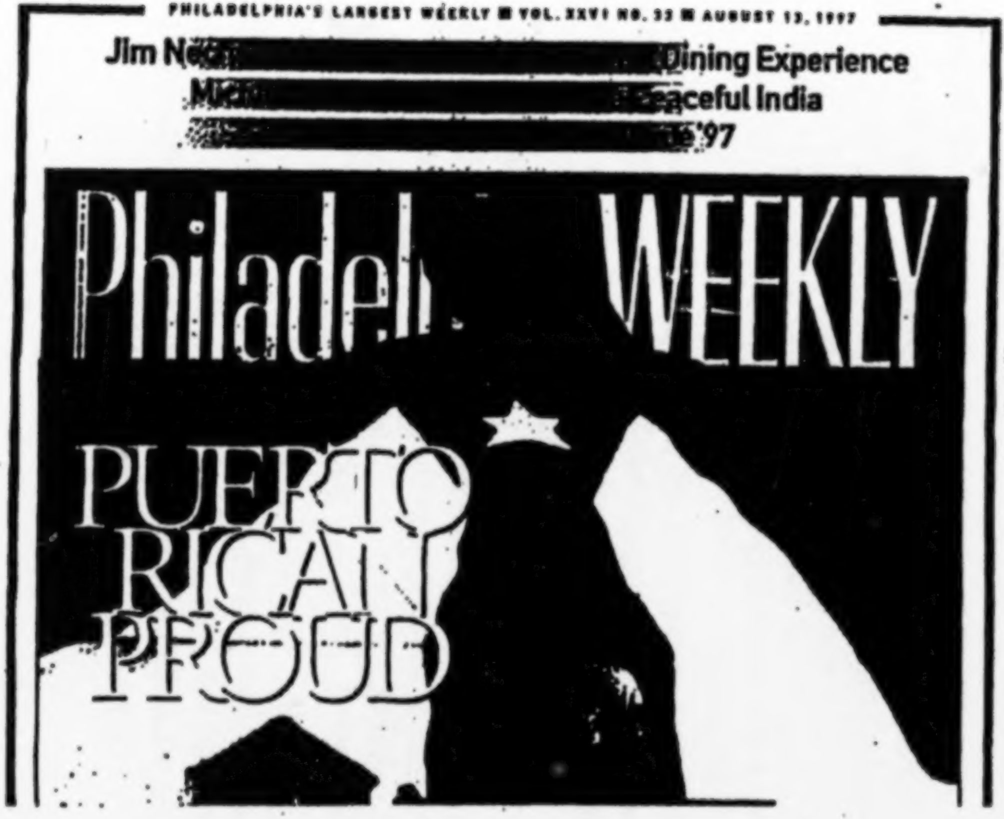
Q. All right. If we could look at Exhibit Number-21. And that is a set of telephone records. And from what I can tell, Mr. Angino, it would appear that there are two references on this document on page 1, to phone calls to Mr. Roberts at Newsweek. The first is under the first heading—

A. Is it on page 1?

Q. Yes. August 20, 5:12 p.m., looks like 36 seconds. Do you see that?

A. Help me here.

Q. First page of the exhibit, Exhibit-21,



PHILADELPHIA'S LARGEST WEEKLY ■ VOL. XXVI NO. 33 ■ AUGUST 13, 1997

Jim [redacted] Dining Experience
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Philadel WEEKLY

PUERTO
RICAN
PROUD

‑rs alive and 20 years dead.
‑e it to Memphis to honor the King,
works of Rockin' Ron Cade,
: "Elvis And Friends" and
‑ding of local Elvis experts.
‑ are keeping Cade from going to
‑ny thoughts are very much there"),
‑es lucky for local fans.
‑d his favorite Elvis entertainer
‑w for an already sold-out crowd at
‑ in the Northeast.
‑ple" will show up for four hours of
‑en they'll have Saturday to rest up
‑hour tribute show on Sunday.
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‑am, on the air every Sunday
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eak

Media Has C. DeLores Tuckered

After filing a $10 million defamation lawsuit against **Time Warner Records** and the estate of murdered rap artist **Tupac Shakur**, anti-rap crusader **C. DeLores Tucker** is now complaining that the media is out to distort the facts of the lawsuit. Claiming that clever rhymes in *Shakur's* **"All Eyez on Me"** release such as "Delores Tucker, you're a mother______" caused her "great humiliation, mental pain and suffering," Tucker included her husband, William, in the suit, claiming that he had suffered "a loss of advice, companionship and consortium." Although the *Inquirer* didn't even cover the filing of the suit, the *Daily News* trumpeted on its August 2 front page, "C. DeLores Tucker Claims CD Gave Her A Dirty Rap: Suit vs. Shakur estate says "vile" lyrics ruined her rep and her sex life." Daily News managing editor **Brian Toolan** defends the paper's treatment of the story, saying that "it's generally understood that's what loss of consortium is supposed to mean in the law." But Tucker's attorney, **Richard C. Angino** disputes this, stating that the phrase is a standard addition to lawsuits of this type and refers to all aspects of the marital relationship, not necessarily sex. "This is why people sometimes get so upset with the media," says Angino. One disinterested personal injury attorney who wished not to be named agrees with Angino, but adds that, "Loss of consortium is a lot of nonsense. I once recovered $50,000 for an injured woman, and the jury gave her husband one dollar for loss of consortium."

—N. W.

Yard Art Better Than Flamingos And Gnomes

Philadelphia artists wrote another chapter in the do-it-yourself exhibition manual this weekend, when more than 150 art-lovers visited the South Philadelphia backyard of painter **Nancy Lewis** and sculptor **Alexander Cheves** for a look at their **Backyard Sculpture Invitational**. Part of a growing trend in which which artists are creating their own exhibits in vacant stores, apartments and private homes, the Backyard Invitational features works by **Astrid Bowlby**, **Nick Fox**, **Jim Hinz**, **Laura Hutton**, **Emily Thompson**, **August Ventimiglia** and Cheves himself, all in a 1,000 square-foot rowhouse backyard. The site-specific works all deal with the notion of the backyard as an urban "oasis," and although the exhibit remains open through August 15, you'll have to

NATIONAL POLITICAL CONGRESS OF BLACK WOMEN, INC.
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21 August 1997

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C. DELORES TUCKER , WHO RECENTLY NAMED SEAGRAMS IN A MULTI-MILLION $$ LAWSUIT, PRAISES CEO EDGAR BRONFMAN FOR DUMPING GANGSTA RAP

For Immediate Release

For additional Information, call
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Washington, DC– SEAGRAM CEO Edgar Bronfman's reported decision "to pull the plug"on Death Row Records and get out of the production and distribution of gangsta rap music and its vile lyrics, was greeted with praise this week by C. DeLores Tucker.

Tucker recently named SEAGRAMS in a ten million dollar plus lawsuit, along with INTERSCOPE RECORDS, DEATH ROW RECORDS, TED FIELDS, the estate of TUPAC SHAKUR, TIME WARNER AND TOWER RECORDS.

Dr. Tucker, founder/chair of the National Political Congress of Black Women, Inc. (NPCBW), which has been waging a lonely but unrelenting fight for more than five years against the music that she condemns as "grossly demeaning Black Women.... advocates drug use, incites violence, panders pornography to our children, and holds black people up to contempt all over the world", effusively patted Bronfman on the back for his recent action.

Said she: "I vigorously applaud him for doing what we have been urging him to do for some time, now. When it was announced that we (NPCBW) brought a suit against the industry for defamation of character, etc., the major media singled out the late Tupac Shakur, as our principal target.

He was not. He singled me out in his record, All Eyez On Me, for demeaning and scurrilous assault. But our suit was aimed at the 'Gangstas in the Suites' –that upper level of record executives–not those poor victimized Black artists in the streets. Not one newspaper or magazine mentioned that Tupac was merely one of several we were suing."

"All the media gleefully jumped on the so-called sex part in the suit that called attention to loss of consortium, which was put in there by my husband, Bill, not by me, she added, obviously nettled.

In the news announcement of his latest move, Bronfman, according to a source, admits being under pressure from his own shareholders and regulators, and doesn't need to be near gangs and thugs and murderers. Death Row's fiscal star has fallen. It's the subject

Page 2
Tucker Praises Seagrams' CEO for Dumping Gangsta Rap

of a federal probe, and its owner, Suge Knight (Knight who is black, is not the owner; David Kenner, a white lawyer is listed as a chief Death Row official) is doing nine years prison sentence for parole violation.

Federal officials are reportedly investigating Death Row on suspicion of drug distribution and money laundering , among other things.

Recent media handling of this story has distorted and detracted from the real issue of greedy and racist record producers who are grossly exploiting and stereotyping Black youth for huge profits," said Dr. Tucker, who is deeply concerned over the way the mainstream media has handled the story. "Record sales are down, the industry admits, citing gangsta rap music as its biggest money maker", she adds.

Upon learning of his entry into the gangsta rap music industry some months ago, Dr. Tucker fired off a letter to Mr. Bronfman condemning the move, citing the degrading aspect of the genre, appealing to his sense of honor and urging him to get out of that business.

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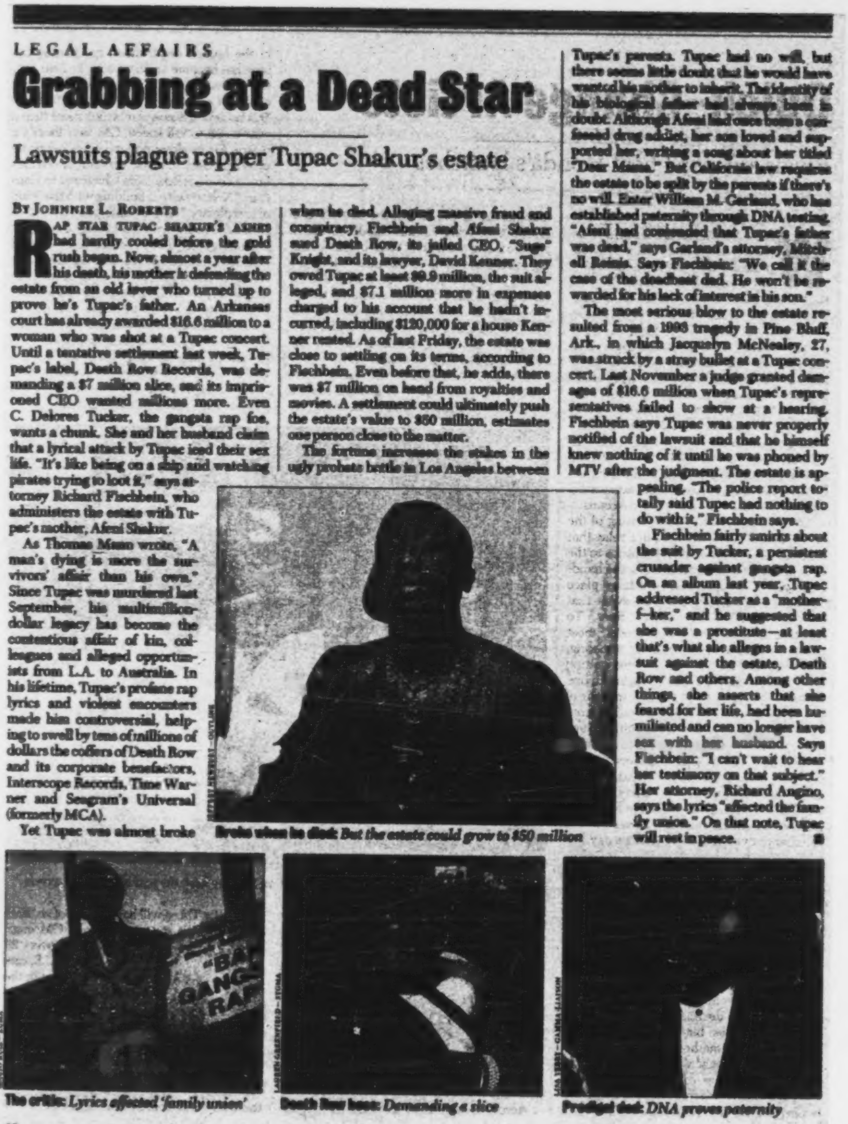
a:kid.wpd



LEGAL AFFAIRS

Grabbing at a Dead Star

Lawsuits plague rapper Tupac Shakur's estate

By Johnnie L. Roberts

RAP STAR TUPAC SHAKUR'S ASHES had hardly cooled before the gold rush began. Now, almost a year after his death, his mother is defending the estate from an old lover who turned up to prove he's Tupac's father. An Arkansas court has already awarded $16.6 million to a woman who was shot at a Tupac concert. Until a tentative settlement last week, Tupac's label, Death Row Records, was demanding a $7 million slice, and its imprisoned CEO wanted millions more. Even C. Delores Tucker, the gangsta rap foe, wants a chunk. She and her husband claim that a lyrical attack by Tupac iced their sex life. "It's like being on a ship and watching pirates trying to loot it," says attorney Richard Fischbein, who administers the estate with Tupac's mother, Afeni Shakur.

As Thomas Mann wrote, "A man's dying is more the survivors' affair than his own." Since Tupac was murdered last September, his multimillion-dollar legacy has become the contentious affair of kin, colleagues and alleged opportunists from L.A. to Australia. In his lifetime, Tupac's profane rap lyrics and violent encounters made him controversial, helping to swell by tens of millions of dollars the coffers of Death Row and its corporate benefactors, Interscope Records, Time Warner and Seagram's Universal (formerly MCA).

Yet Tupac was almost broke when he died. Alleging massive fraud and conspiracy, Fischbein and Afeni Shakur sued Death Row, its jailed CEO, "Suge" Knight, and its lawyer, David Kenner. They owed Tupac at least $9.9 million, the suit alleged, and $7.1 million more in expenses charged to his account that he hadn't incurred, including $120,000 for a house Kenner rented. As of last Friday, the estate was close to settling on its terms, according to Fischbein. Even before that, he adds, there was $7 million on hand from royalties and movies. A settlement could ultimately push the estate's value to $50 million, estimates one person close to the matter.

The fortune increases the stakes in the ugly probate battle in Los Angeles between Tupac's parents. Tupac had no will, but there seems little doubt that he would have wanted his mother to inherit. The identity of his biological father had always been in doubt. Although Afeni had once been a confessed drug addict, her son loved and supported her, writing a song about her titled "Dear Mama." But California law requires the estate to be split by the parents if there's no will. Enter William M. Garland, who has established paternity through DNA testing. "Afeni had contended that Tupac's father was dead," says Garland's attorney, Mitchell Reinis. Says Fischbein: "We call it the case of the deadbeat dad. He won't be rewarded for his lack of interest in his son."

The most serious blow to the estate resulted from a 1996 tragedy in Pine Bluff, Ark., in which Jacquelyn McNealey, 27, was struck by a stray bullet at a Tupac concert. Last November a judge granted damages of $16.6 million when Tupac's representatives failed to show at a hearing. Fischbein says Tupac was never properly notified of the lawsuit and that he himself knew nothing of it until he was phoned by MTV after the judgment. The estate is appealing. "The police report totally said Tupac had nothing to do with it," Fischbein says.

Fischbein fairly smirks about the suit by Tucker, a persistent crusader against gangsta rap. On an album last year, Tupac addressed Tucker as a "motherf—ker," and he suggested that she was a prostitute—at least that's what she alleges in a lawsuit against the estate, Death Row and others. Among other things, she asserts that she feared for her life, had been humiliated and can no longer have sex with her husband. Says Fischbein: "I can't wait to hear her testimony on that subject." Her attorney, Richard Angino, says the lyrics "affected the family union." On that note, Tupac will rest in peace. ■

Broke when he died: *But the estate could grow to $50 million*

The critic: *Lyrics affected 'family union'*

Death Row boss: *Demanding a slice*

Prodigal dad: *DNA proves paternity*

48 NEWSWEEK SEPTEMBER 1, 1997

ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

C. DELORES TUCKER and WILLIAM TUCKER, her husband,

Plaintiffs,

-against-

RICHARD FISCHBEIN, TIME WARNER, INC., BELINDA LUSCOMBE, NEWSWEEK MAGAZINE, and JOHNNIE L. ROBERTS,

Defendants.

(Caption continues on Page 2)

1271 Avenue of the Americas
New York, New York

July 1, 1998
9:10 a.m.

Deposition of the Defendant, JOHNNIE ROBERTS, before Rita Persichetty, a Notary Public of the State of New York.

ELLEN GRAUER COURT REPORTING CO.
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New York, New York 10022
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REF: 60494A

for me.

Q. Did I tell you that the media was misrepresenting, blowing out of proportion Paragraph 50?

A. That the media was blowing out of proportion?

Q. Paragraph 50.

MR. BAINE: You're not asking whether you used those exact words, but conveyed that idea to him?

MR. ANGINO: Yes.

Q. Misrepresentation?

A. No, I don't remember that word coming from you in that conversation. I don't remember that word, using that word, no.

Q. Eliminate the word "misrepresentation". Do you remember my saying that, "The media is blowing out of proportion Paragraph 50"?

A. I don't remember those words, that the media was blowing it out of proportion.

Q. Did I make it clear to you that this case had nothing to do with sex?

A. No.

Q. Did I make it clear to you that there's something called a marital union consistent of a husband and wife?

MR. BAINE: Objection to the form of the question, because that's not real clear.

A. I don't know.

Q. Look, what you have here, there is one count that you've marked down here, there is one count of loss, you call it companionship, when I have used the word "consortium"?

A. No.

Q. I used companionship, I said, "I'm a lawyer", I said, "There is one count of loss of companionship"?

A Yes.

Q. So you're saying I told you there's one count of loss of companionship?

A. That's what I'm saying, yes.

Q. It's ignoring the other counts; is that what I said?

A. Yes.

Q. We are talking about all of this affecting Tucker singular; is that right?

A. Yes.

Q. If someone affects you physically, mentally, they've affected the family union; is that right?

A. Correct.

Q. "In most litigation there is—", now you've left out, did I not say, "In most litigation there is a count for loss of consortium", is that not what is there, you've left it out, "In most litigation"?

MR. BAINE: If you're going to keep doing this you're never going to get an answer.

Q. Does it say, "In most litigation there is", and then three dots?

A. You may have well used the word "consortium".

Q. In most litigation there is a count for loss of consortium. Would you accept that that's what I said?

A. What I'm saying is that you may in fact have used that word, I don't remember.

Q. Did I describe that most automobile accidents have such counts and many other suits have that count?

A. You may have.

Q. And I went through a discussion about the fact that every such lawsuit has such an account?

A. No, I don't think it was that sweeping.

Q. You wrote "most litigation", that's what you recorded; right?

A. Yes.

Q. And I discussed the elements that could be included; is that right?

A. Yes.

Q. It went on to say, "There's somewhere it can include sex"; is that right?

A. I have, "It can include sex."

Q. But I told you this one did not; did I not?

A. No, you didn't.

Q. I went on to say, "It's probably one of the less", and I would have least, you have less significant. Did I say, "One of the ...

FILED SEP 02 1997

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION NO. 97CV-4717

C. DELORES TUCKER and
WILLIAM TUCKER, her husband,

Plaintiffs

v

MTS, INC. t/a TOWER RECORDS; INTERSCOPE, INC.; INTERSCOPE RECORDS; TED FIELD; TIME WARNER; JAMES IOVINE; SEAGRAM CO.; MCA INC.; DEATH ROW RECORDS, INC.; DAVID KENNER; RICHARD FISCHBEIN as co-administrator and AFENI SHAKUR as co-administratrix of the ESTATE OF TUPAC SHAKUR,

Defendants

JUDGE RONALD BUCKWALTER

JURY TRIAL DEMANDED

AMENDED COMPLAINT

1. Plaintiff C. Delores Tucker is the chair of the nonprofit National Congress of Black Women, Inc. She is the former Secretary of State of the Commonwealth of Pennsylvania and Chair of the Democratic National Committee Black Caucus and the National Board of N.A.A.C.P.

2. Plaintiff C. Delores Tucker resides in the Commonwealth of Pennsylvania.

3. Plaintiff William Tucker is married to C. Delores Tucker and resides in the Commonwealth of Pennsylvania.

4. Defendant MTS, Inc., under the trade name of Tower Records, is a California Corporation with its principal place of business in California.

5. Defendant Interscope, Inc. is a California Corporation with its principal place of business in California.

6. Defendant Interscope Records is a California General Partnership with its principal place of business in California.

7. Defendant Ted Field is an owner or partner and/or has a financial interest in Interscope Records and resides in a state other than Pennsylvania.

8. Defendant Time Warner has or had a financial interest in Interscope Records, and its principal place of business is in a state other than the Commonwealth of Pennsylvania.

9. Defendant James Iovine is the President of Interscope Records and resides in a state other than Pennsylvania.

10. Defendant Seagram Co. is a company with a financial interest in Interscope and has its principal places of business outside of the Commonwealth of Pennsylvania.

11. Defendant MCA Inc. and/or Universal are corporations with a financial interest in Interscope and principal places of business in a state other than the Commonwealth of Pennsylvania.

12. Defendant Death Row Records, Inc., is a California Corporation with its principal place of business in California.

13. David Kenner is an attorney representing Death Row Records, Inc., may have a proprietary and/or other financial interest in Death Row Records, and resides outside the Commonwealth of Pennsylvania.

14. Defendant Afeni Shakur who resides in a state other than Pennsylvania is the co-administratrix of the Estate of deceased Defendant Tupac Shakur.

15. Defendant Richard Fischbein who resides in a state other than Pennsylvania is the co-administrator of the Estate of deceased Defendant Tupac Shakur.

16. At all times relevant to this Complaint, up until his death on September 13, 1996, deceased Defendant Tupac Shakur was a servant, agent, apparent agent and/or employee of Defendant Death Row Records and was acting within the course and scope of employment for Death Row Records.

17. At all times relevant to this Complaint, James Iovine was a servant, agent, and/or employee of Interscope Records and was acting within the course and scope of employment for Interscope Records.

18. At all times relevant to this Complaint, David Kenner was a servant, agent, and/or employee of Death Row Records, Inc. and was acting within the course and scope of employment for Death Row Records.

19. At all times relevant to this Complaint, Defendant Interscope Records had an exclusive distribution agreement with Defendant Death Row Records through which Interscope Records distributed under its label, recordings produced by Defendant Death Row Records.

20. At all times relevant to this Complaint, Defendant Interscope Inc., was the managing general partner of Defendant Interscope Records.

21. At all or various times relevant to this Complaint, Interscope Records was 50% owned by Seagram Co.'s MCA Inc.

22. At all or various times relevant to this Complaint, Interscope Records was owned in part by Time Warner or Time Warner had a financial interest in Interscope.

23. Prior to February, 1996, Plaintiff C. Delores Tucker was the leader of a large group of religious, moral, and law abiding citizens who marched, lobbied, and campaigned against the pornographic and drug oriented misogynistic lyrics of "gangsta" rap as created, promoted, distributed, and marketed by various defendants to minors without restriction.

24. "Gangsta rap" is a slang expression using vernacular for the word "gangster" which, by definition refers to one engaged in anti-social or criminal behavior. Furthermore, the music contains vile, profane, obscene and indecent lyrics which glorify drugs, violence, and illicit sex. "Rap" or "Hip Hop" is a form of music, more spoken than sung, and can be distinguished from "gangsta rap" in that it chronicles life in the

ghetto without obscene and indecent lyrics, and may have redeeming social value.

25. Various defendants involved with Death Row Records and "gangsta" rappers take pride in the sex, drugs and "gangsta" violent behavior and its influence on increased record sales.

26. Plaintiff has focused her attention on stopping the production and distribution of said music to impressionable youth, because it tends to corrupt the morals of minors, in violation of 18 Pa.C.S.A. §6301(a), that some of it is obscene and unprotected by the Constitution, and some is "explicitly sexual material" in violation of 18 Pa.C.S.A. §5903(c). See Exhibits "A" and "B" attached hereto.

27. Said efforts met with widespread support across political, racial and economic lines, including support from William Bennett, former U.S. Secretary of Education, U.S. Senator Joseph Lieberman, Majority Leader and Vice Presidential candidate Robert Dole, and General Colin Powell.

28. In February, 1996, Defendant Interscope Records, distributed under its label, "All Eyez On Me", which is a record containing music performed by deceased Defendant recording gangsta rap superstar Tupac Shakur and produced by Defendant Death Row Records.

29. Contained on the aforementioned recording entitled "All Eyez on Me" are recordings entitled "Wonda Why they Call B" and "How Do You Want It."

30. Contained in the aforementioned recording entitled "How Do You Want It" were lyrics stating "C. Delores Tucker you're a mother fucker, instead of trying to help a brother you destroy a nigga."

31. Contained in the aforementioned recording entitled "Wonda Why they Call B" were lyrics stating "Got your legs up trying to get rich. Keep your head up and your legs closed Dear Ms. Delores Tucker" alluding to prostitution and tells why women are called bitches.

32. In January, 1996, Plaintiff C. Delores Tucker engaged in a lawful protest against the sale of gangsta rap music to minors by Defendant MTS, Inc., under the trade name of Tower Records, in Philadelphia, Pennsylvania.

33. On March 2, 1996, Plaintiff again, in the exercise of her constitutional right to protest, engaged in a protest on the premises of Defendant, MTS, Inc., under the trade name of Tower Records, in Philadelphia, Pennsylvania to stop the sale to minors of sound recordings containing sexually explicit lyrics as expressly prohibited by 18 Pa. C.S.A. §5903 and 18 Pa. C.S.A. §6301(a). See Exhibits "A" and "B".

34. As a result of her lawful protest, Plaintiff was arrested, handcuffed, and forcibly removed by police from the premises of Defendant MTS, Inc., under the trade name of Tower Records.

35. The aforementioned removal of Plaintiff C. Delores Tucker from the premises of Defendant MTS, Inc., under the trade name of Tower Records, took place under the express direction or with the knowledge and consent of Defendant MTS, Inc., under the trade name Tower Records.

36. Sometime after February 1, 1996, Defendant MTS, Inc., under the trade name of Tower Records, nevertheless offered for sale and sold to minors the aforementioned sound recording entitled "All Eyez On Me", and other gangsta rap albums containing sexually explicit messages, offensively coarse language and lewd and indecent words about Plaintiff C. Delores Tucker.

37. Defendants all participated in various ways, in the conceiving of the idea, creating the recording, the marketing/distributing and not recalling "All Eyez On Me" which contained sexually explicit messages, offensively coarse language, and lewd and indecent words about Plaintiff C. Delores Tucker in violation of 18 Pa. C.S.A. §5504.

38. In August, 1995, Defendant Interscope filed suit against Plaintiff C. Delores Tucker in California charging her, *inter alia,* with Inducement to Breach the Contract between Death Row and Interscope.

39. Defendants knew full well that Plaintiff had done no such thing and filed the false claim only to embarrass her, to cause emotional distress and to deter her crusade against gangsta rap.

40. In May, 1997, the U.S. District Court for the Central District of California (Case No. CV 95-5444), Judge M. Takasugi issued an opinion that there was no breach of contract and that Plaintiff did not induce a breach of the contract as alleged by Interscope, which of course they already knew.

41. Following the lawsuits and the release of the aforementioned recordings, Plaintiff, C. Delores Tucker has reasonable fear for her life because violence and death play a central role in the gangsta rap arena. Indeed, two prominent murders have been reported since the unsolved murder of Tupac Shakur in September, 1996.

42. Since the lawsuits and the release of the aforementioned recordings Plaintiff, C. Delores Tucker has received death threats.

43. The lawsuits and the release of the aforementioned recordings were intended to and did cause Plaintiff C. Delores Tucker severe emotional distress.

44. By using vile and offensive language, the recordings have held her up as an object of scorn to more than 5,000,000 people, including children in Philadelphia and elsewhere.

45. Defendant Co-administrator of the Estate of Tupac Shakur has continued to defame and harass plaintiff by holding her up in a false light even after the complaint in this matter was filed on June 21, 1997.

46. Defendant Fishbein made false and misleading statements regarding the claim herein, through published statements that C. Delores Tucker filed suit because of a "loss of

her sex life." This statement was untrue, and Defendant Attorney Fishbein should have known it was untrue.

47. Since the lawsuits and the release of the aforementioned recordings C. Plaintiff C. Delores Tucker has suffered defamation of character and reputation.

48. Plaintiff, who is frequently called upon to speak at churches throughout the country, is a moral and religious daughter of a well-known, respected Philadelphia minister, now deceased, and has siblings, extensive family, relatives, and thousands of friends in Philadelphia and throughout the country and world, who have heard or heard about the said recording and lawsuits.

49. As a result, Plaintiff C. Delores Tucker, has incurred medical expense; has undergone mental pain, suffering, and inconvenience; loss of life's pleasures; fears for her life; has lost her personal freedom to travel freely where and when she desires; has suffered from insomnia, high blood pressure, severe headaches, weight loss and weakness; and claim is made therefor.

50. As a result of the aforesaid injuries, Plaintiff C. Delores Tucker will incur medical expense; will undergo mental pain, suffering, and great inconvenience; loss of life's pleasures; fear for her life; lose her personal freedom to travel freely where and when she desires; suffer from insomnia, high blood pressure, severe headaches, weight loss and weakness; and claim is made therefor.

51. As a result, Plaintiff C. Delores Tucker has been, and in the future will be, subject to great humiliation and embarrassment, and claim is made therefor.

52. Plaintiff's husband, William Tucker has as a result of his wife's injuries, suffered a loss of advice, companionship and consortium.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand judgement against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT I—PRELIMINARY INJUNCTION

C. Delores Tucker and William Tucker v. MTS, Inc., t/a Tower Records, Interscope Inc. Interscope Records, Ted Field, James Iovine, Seagram Co., MCA Inc., Death Row Records, Inc., Estate of Tupac Shakur, Richard Fischbein as Co-Administrator of the Estate of Tupac Shakur, Afeni Shakur as Co-Administratrix of the Estate of Tupac Shakur, Time Warner, and David Kenner.

51. Paragraphs 1 through 50 are of this Complaint are incorporated herein by reference.

53. Plaintiff C. Delores Tucker has been and will continue to be irreparably harmed by the distribution and sale of the aforementioned gangsta rap recording "All Eyez On Me" by Defendants, for she has incurred medical expense, undergone mental pain, suffering and inconvenience; loss of life's pleas-

ures; fears for her life; has lost her personal freedom to travel freely where and when she desires; has suffered and will continue to suffer from insomnia, high blood pressure, severe headaches, weight loss and weakness, all as a result of the sale and distribution of aforementioned recording.

54. Therefore, Defendants should be enjoined from the distribution and sale of the aforementioned recording entitled "All Eyez On Me."

WHEREFORE, Plaintiffs respectfully request that this Court enjoin the Defendants from the distribution and sale of the aforementioned recording entitled "All Eyez on Me."

COUNT II—INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

C. Delores Tucker and William Tucker v. MTS, Inc., t/a Tower Records, Interscope Inc., Interscope Records, Ted Field, James Iovine, Seagram Co., MCA Inc., Death Row Records, Inc., Estate of Tupac Shakur, Robert Fischbein as Co-Administrator of the Estate of Tupac Shakur, Afeni Shakur as Co-Administratrix of the Estate of Tupac Shakur Time Warner, and David Kenner.

55. Paragraphs 1 through 53 of this Complaint are incorporated herein by reference.

56. Deceased Defendant Tupac Shakur's conduct as set forth above was extreme and outrageous.

57. As a direct and proximate result of Defendant Tupac Shakur's extreme and outrageous conduct as set forth above, Plaintiff C. Delores Tucker suffered severe emotional distress

including but not limited to, feelings of fright, shock, humiliation, and outrage.

58. As a direct and proximate result of Defendant Tupac Shakur's extreme and outrageous conduct set forth above, Plaintiff C. Delores Tucker suffered from physical manifestations resulting from the aforementioned severe emotional distress including but not limited to insomnia, high blood pressure, severe headaches, weight loss and weakness.

59. Defendants all participated in various ways, including the bringing of lawsuits, submitting Plaintiff Tucker to eleven days of depositions, the conceiving of the idea, creating the recording, the marketing/distributing and not recalling "All Eyez On Me" for the specific purpose of causing Plaintiff C. Delores Tucker to suffer extreme distress, fear for her life, and to lessen her resolve against "gangsta" rap.

60. Defendants' actions as set forth above constituted extreme and outrageous conduct that evidence a wanton disregard for the safety and well-being of Mrs. Tucker sufficient to merit an award of punitive damages, and claim is made therefor.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand judgment against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT III—SLANDER

C. Delores Tucker and William Tucker v. MTS, Inc., t/a Tower Records, Interscope Inc., Interscope Records, Ted Field, James Iovine, Seagram Co., MCA Inc., Death Row Records, Inc., Robert Fischbein as Co-Administrator of the Estate of Defendant Tupac Shakur, Afeni Shakur as Co-Administratrix of the Estate of Defendant Decedent Tupac Shakur, Time Warner, and David Kenner.

61. Paragraphs 1 through 55 of this Complaint are incorporated herein by reference.

62. Deceased Defendant Tupac Shakur's aforementioned lyrics referring to Plaintiff C. Delores Tucker in "All Eyez On Me" were false and defamatory when produced, marketed, distributed and sold.

63. Deceased Defendant Tupac Shakur's aforementioned defamatory lyrics were produced with malice, meaning that said lyrics were produced with knowledge that they were false.

64. Defendants other than Deceased Defendant Tupac Shakur knowingly participated in the creation, marketing, distribution, and sale of the slanderous recording "All Eyez On Me" and refused to recall same even though there was precedent involving antisemitic lyrics by Michael Jackson.

65. As a result of the malicious lyrics, Plaintiff C. Delores Tucker's reputation has been subject to ridicule, insult, and her reputation damaged.

66. Defendants' actions as set forth above constituted extreme and outrageous conduct that evidence a wanton disregard for the safety and well-being of Mrs. Tucker sufficient to merit an award of punitive damages, and claim is made therefor.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand punitive judgement against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT IV—INVASION OF PRIVACY

C. Delores Tucker and William Tucker v. MTS Inc., t/a Tower Records, Interscope Inc., Interscope Records, Ted Field, James Iovine, Seagram Co., MCA Inc., Death Row Records, Inc., Robert Fishbein as Co-Administratrix of the Estate of Defendant Tupac Shakur, Afeni Shakur as Co-Administratrix of the Estate of Defendant Decedent Tupac Shakur Time Warner and David Kenner

67. Paragraphs 1 through 65 of this Complaint are incorporated herein by reference.

68. Deceased Defendant Tupac Shakur's lyrics contained in the aforementioned recording "All Eyez On Me" were intentionally created, recorded, marketed/distributed, sold, and not recalled for the purpose of intruding upon the private affairs and concerns of Plaintiff C. Delores Tucker.

69. Defendants all appropriated to their own use and benefit, the name of C. Delores Tucker by creating, recording, marketing/distributing, selling and not recalling the aforementioned recording "All Eyez On Me.".

70. Defendants all participated in various ways in placing Plaintiff C. Delores Tucker before the public in a false light of a kind highly offensive to the reasonable man by creating, recording, marketing/distributing, selling and not recalling the aforementioned recording "All Eyez On Me."

71. Defendants all participated in various ways in unreasonably and seriously interfering with Plaintiff C. Delores Tucker's interest in not having her name or likeness exhibited to the public by creating, recording, marketing/distributing, selling and not recalling the aforementioned recording "All Eyez On Me."

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand punitive judgement against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

ANGINO & ROVNER, P.C.
/s/Richard C. Angino, Esquire
Attorney I.D. No. 07140
4503 North Front Street
Harrisburg, PA 17110
Counsel for Plaintiff

Dated: 8/27/97

CERTIFICATE OF SERVICE

I, Shirley Corman, an employee of Angino Rovner, PC, hereby certify that I have this day served a copy of the foregoing Amended Complaint via first class mail, postage prepaid, upon the following:

Michael T. Mervis, Esquire
Paul, Hastings, Janofsky & Walker LLP
399 Park Avenue
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Counsel for Interscope, Inc.; Interscope Records; Ted Field; James Iovine

Glenn S. Shubb, Esquire
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Counsel for David E. Kenner, Death Row Records

David W. Ichel, Esquire
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Counsel for MCA, Inc.; Joseph E. Seagram & Sons, Inc.

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Time Warner, Inc.
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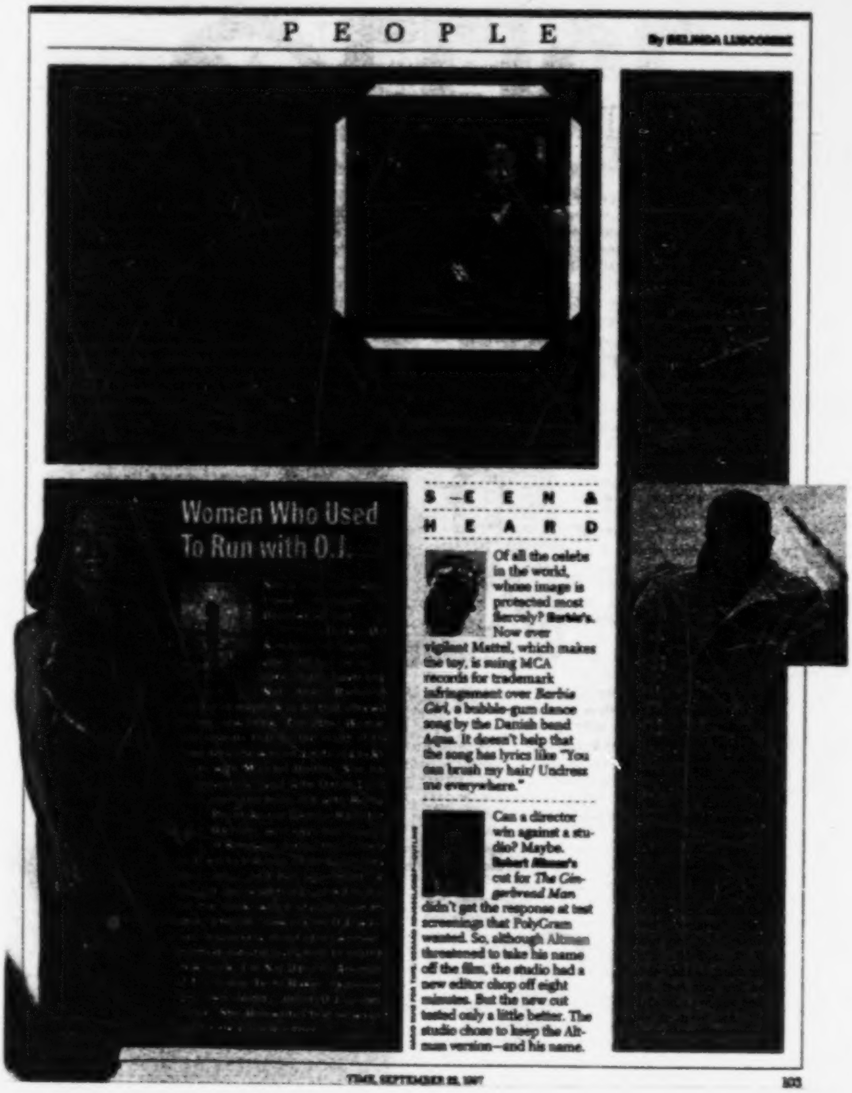
Donald N. David, Esquire
Fischbein•Badillo•Wagner•Harding
909 Third Avenue
New York, NY 10022
Counsel for Estate of Shupak Shakur

/s/Shirley Corman

Dated: 8/27/97



P E O P L E

By BELINDA LUSCOMBE

Women Who Used To Run with O.J.

S E E N &
H E A R D

Of all the celebs in the world, whose image is protected most fiercely? **Barbie's.** Now ever vigilant Mattel, which makes the toy, is suing MCA records for trademark infringement over *Barbie Girl*, a bubble-gum dance song by the Danish band Aqua. It doesn't help that the song has lyrics like "You can brush my hair/ Undress me everywhere."

Can a director win against a studio? Maybe. **Robert Altman's** cut for *The Gingerbread Man* didn't get the response at test screenings that PolyGram wanted. So, although Altman threatened to take his name off the film, the studio had a new editor chop off eight minutes. But the new cut tested only a little better. The studio chose to keep the Altman version—and his name.

TIME, SEPTEMBER 22, 1997 103

FILED OCT-1 1997

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION NO. 97-CV-4717

C. DELORES TUCKER and
WILLIAM TUCKER, her husband,

Plaintiffs

v

MTS, INC. t/a TOWER RECORDS; INTERSCOPE, INC.; INTERSCOPE RECORDS; TED FIELD; TIME WARNER; JAMES IOVINE; SEAGRAM CO.; MCA INC.; DEATH ROW RECORDS, INC.; DAVID KENNER; ESTATE OF TUPAC SHAKUR; RICHARD FISCHBEIN, Individually, and as co-administrator of the ESTATE OF TUPAC SHAKUR; AFENI SHAKUR, Individually and as co-administratrix of the ESTATE OF TUPAC SHAKUR; PRIORITY RECORDS, INC.; THORN EMI; and EMI MUSIC

Defendants

JUDGE RONALD BUCKWALTER

JURY TRIAL DEMANDED

SECOND AMENDED COMPLAINT

1. Plaintiff C. Delores Tucker is the chair of the nonprofit National Congress of Black Women, Inc. She is the former Secretary of State of the Commonwealth of Pennsylvania,

Chair of the Democratic National Committee Black Caucus, and a member of the Board of the NAACP National Board of Trustees.

2. Plaintiff C. Delores Tucker resides in the Commonwealth of Pennsylvania.

3. Plaintiff William Tucker is married to C. Delores Tucker and resides in the Commonwealth of Pennsylvania.

4. Defendant MTS, Inc., under the trade name of Tower Records, is a California Corporation with its principal place of business in California.

5. Defendant Interscope, Inc. is a California Corporation with its principal place of business in California.

6. Defendant Interscope Records is a California General Partnership with its principal place of business in California.

7. Defendant Ted Field is an owner or partner and/or has a financial interest in Interscope Records and resides in a state other than Pennsylvania.

8. Defendant Time Warner has or had a financial interest in Interscope Records, and its principal place of business is in a state other than the Commonwealth of Pennsylvania.

9. Defendant James Iovine is the President of Interscope Records and resides in a state other than Pennsylvania.

10. Defendant Seagram Co. is a company with a financial interest in Interscope and has its principal places of business outside of the Commonwealth of Pennsylvania.

11. Defendant MCA Inc. and/or Universal are corporations with a financial interest in Interscope and principal places of business in a state other than the Commonwealth of Pennsylvania.

12. Defendant Death Row Records, Inc., is a California Corporation with its principal place of business in California.

13. David Kenner is an attorney representing Death Row Records, Inc., may have a proprietary and/or other financial interest in Death Row Records, and resides outside the Commonwealth of Pennsylvania.

14. Defendant Afeni Shakur who resides in a state other than Pennsylvania is the co-administratrix of the Estate of deceased Defendant Tupac Shakur.

15. Defendant Richard Fischbein is the co-administrator of the Estate of deceased Defendant Tupac Shakur and resides in a state other than Pennsylvania.

16. Priority Records, Inc. is an entity whose principal place of business is located in a state other than the Commonwealth of Pennsylvania.

17. Thorn EMI and EMI Music are entities whose principal places of business are located in a state or country other than the Commonwealth of Pennsylvania.

18. At all times relevant to this Complaint, up until his death on September 13, 1996, deceased Defendant Tupac Shakur was a servant, agent, apparent agent and/or employee of Defendant Death Row Records and was acting within the course and scope of employment for Death Row Records.

19. At all times relevant to this Complaint, James Iovine was a servant, agent, and/or employee of Interscope Records and was acting within the course and scope of employment for Interscope Records.

20. At all times relevant to this Complaint, David Kenner was a servant, agent, and/or employee of Death Row Records, Inc. and was acting within the course and scope of employment for Death Row Records.

21. At all times relevant to this Complaint, Defendant Richard Fischbein was acting within the course and scope of his fiduciary position as co-administrator of the Estate of deceased Defendant Tupac Shakur.

22. At all times relevant to this Complaint, Defendant Afeni Shakur was acting within the course and scope of her fiduciary position as co-administratrix of the Estate of deceased Defendant Tupac Shakur.

23. At all times relevant to this Complaint, Defendant Interscope Records had an exclusive distribution agreement with Defendant Death Row Records through which Interscope Records distributed under its label, recordings produced by Defendant Death Row Records.

24. At all times relevant to this Complaint, Defendant Interscope Inc., was the managing general partner of Defendant Interscope Records.

25. At all or various times relevant to this Complaint, Defendant Priority Records, Inc. was a subsidiary of Defendant EMI Music and/or THORN-EMI.

26. At various times relevant to this Complaint, Interscope Records was owned in part by Time Warner or Time Warner had a financial interest in Interscope.

27. At various times relevant to this Complaint, Interscope Records was 50% owned by Seagram Co.'s MCA Inc.

28. At various times Defendants Interscope and Death Row Records distributed recordings through Defendant Priority Records, Inc. and Defendants EMI Music and/or THORN-EMI.

29. Prior to February, 1996, Plaintiff C. Delores Tucker was the leader of a large group of religious, moral, and law abiding citizens who marched, lobbied, and campaigned against the pornographic and drug oriented misogynistic lyrics of "gangsta" rap as created, promoted, distributed, and marketed by various defendants to minors without restriction.

30. "Gangsta rap" is a slang expression using vernacular for the word "gangster" which, by definition refers to one engaged in anti-social or criminal behavior. Furthermore, the music contains vile, profane, obscene and indecent lyrics which glorify drugs, violence, and illicit sex. "Rap" or "Hip

Hop" is a form of music, more spoken than sung, and can be distinguished from "gangsta rap" in that it chronicles life in the ghetto without obscene and indecent lyrics, and may have redeeming social value.

31. Various defendants involved with Death Row Records and "gangsta" rappers take pride in the sex, drugs and "gangsta" violent behavior and its influence on increased record sales.

32. Plaintiff has focused her attention on stopping the production and distribution of said music to impressionable youth, because it tends to corrupt the morals of minors, in violation of 18 Pa.C.S.A. §6301(a), that some of it is obscene and unprotected by the Constitution, and some is "explicitly sexual material" in violation of 18 Pa.C.S.A. §5903(c). See Exhibits "A" and "B" attached hereto.

33. Said efforts met with widespread support across political, racial and economic lines, including support from William Bennett, former U.S. Secretary of Education, U.S. Senator Joseph Lieberman, Majority Leader and Vice Presidential candidate Robert Dole, and General Colin Powell.

34. In February, 1996, Defendant Interscope Records, distributed under its label, "All Eyez On Me", which is a record containing music performed by deceased Defendant recording gangsta rap superstar Tupac Shakur and produced by Defendant Death Row Records.

35. Contained on the aforementioned recording entitled "All Eyez on Me" are recordings entitled "Wonda Why they Call B" and "How Do You Want It."

36. Contained in the aforementioned recording entitled "How Do You Want It" were lyrics stating "C. Delores Tucker you're a mother fucker, instead of trying to help a brother you destroy a nigga."

37. Contained in the aforementioned recording entitled "Wonda Why they Call B" were lyrics stating "Got your legs up trying to get rich. Keep your head up and your legs closed Dear Ms. Delores Tucker" alluding to prostitution and tells why women are called bitches.

38. In January, 1996, Plaintiff C. Delores Tucker engaged in a lawful protest against the sale of gangsta rap music to minors by Defendant MTS, Inc., under the trade name of Tower Records, in Philadelphia, Pennsylvania.

39. On March 2, 1996, Plaintiff again, in the exercise of her constitutional right to protest, engaged in a protest on the premises of Defendant, MTS, Inc., under the trade name of Tower Records, in Philadelphia, Pennsylvania to stop the sale to minors of sound recordings containing sexually explicit lyrics as expressly prohibited by 18 Pa. C.S.A. §5903 and 18 Pa. C.S.A. §6301(a). See Exhibits "A" and "B".

40. As a result of her lawful protest, Plaintiff was arrested, handcuffed, and forcibly removed by police from the premises

of Defendant MTS, Inc., under the trade name of Tower Records.

41. The aforementioned removal of Plaintiff C. Delores Tucker from the premises of Defendant MTS, Inc., under the trade name of Tower Records, took place under the express direction or with the knowledge and consent of Defendant MTS, Inc., under the trade name Tower Records.

42. Sometime after February 1, 1996, Defendant MTS, Inc., under the trade name of Tower Records, nevertheless offered for sale and sold to minors the aforementioned sound recording entitled "All Eyez On Me", and other gangsta rap albums containing sexually explicit messages, offensively coarse language and lewd and indecent words about Plaintiff C. Delores Tucker.

43. Defendants all participated in various ways, in the conceiving of the idea, creating the recording, the marketing/distributing and not recalling "All Eyez On Me" which contained sexually explicit messages, offensively coarse language, and lewd and indecent words about Plaintiff C. Delores Tucker in violation of 18 Pa. C.S.A. §5504.

44. In August, 1995, Defendant Interscope filed suit against Plaintiff C. Delores Tucker in California charging her, *inter alia*, with Inducement to Breach the Contract between Death Row and Interscope.

45. Defendants knew full well that Plaintiff had done no such thing and filed the false claim only to embarrass her, to cause emotional distress and to deter her crusade against gangsta rap.

46. In May, 1997, the U.S. District Court for the Central District of California (Case No. CV 95-5444), Judge M. Takasugi issued an opinion that there was no breach of contract and that Plaintiff did not induce a breach of the contract as alleged by Interscope, which of course they already knew.

47. Following the lawsuits and the release of the aforementioned recordings, Plaintiff, C. Delores Tucker has reasonable fear for her life because violence and death play a central role in the gangsta rap arena. Indeed, two prominent murders have been reported since the unsolved murder of Tupac Shakur in September, 1996.

48. Since the lawsuits and the release of the aforementioned recordings Plaintiff, C. Delores Tucker has received death threats.

49. The lawsuits and the release of the aforementioned recordings were intended to and did cause Plaintiff C. Delores Tucker severe emotional distress.

50. Defendants have profited greatly by selling more than five million recordings of "All Eyez On Me" and continue to profit by continuing the sale of this recording.

51. By using vile and offensive language, the recordings have held Dr. Tucker up as an object of scorn to more than 5,000,000 people, including children in Philadelphia and elsewhere.

52 Plaintiffs have directly and indirectly communicated with various Defendants in an effort to have them cease and desist in producing and selling gangsta rap recordings generally and "All Eyez On Me" particularly.

53. Plaintiffs' actions in this regard have had some success to the extent that Defendants Time Warner, THORN-EMI, and Seagrams have divested themselves of interest and/or indicated a disassociation from Death Row and/or Interscope with respect to marketing gangsta rap music to minors.

54. Nevertheless, "All Eyez On Me" continues to be marketed and sold.

55. As a result, a Complaint was commenced on July 21, 1997, to the above docket number.

56. Following the filing of the original Complaint to the above-captioned civil action number, Defendant Richard Fischbein gave an interview to the *Philadelphia Daily News* which, along with the original Complaint became the basis for the August 2, 1997, feature cover article. (Exhibit "C")

57. Defendant Richard Fischbein was quoted by the *Philadelphia Daily News* in its August 2, 1997, feature cover article as "a New York attorney who is co-administrator of Shakur's estate" who summarized Plaintiffs' claim in their original Complaint as being one of damage to Plaintiffs' sex life:

> It's hard for me to conceive how those lyrics could destroy her sex life, ... But we can only wait for the proof to be revealed in court.

Exhibit "C".

58. *Webster's Ninth New Collegiate Dictionary* defines "consortium" as "3 : the legal right of one spouse to the company, affection, and service of the other".

59. Defendant Fischbein was aware of Webster's definition of "consortium" and was aware that only rarely and certainly not by necessity does a consortium claim include a claim for interference or adverse effect upon a husband's and wife's sexual relations.

60. There is absolutely no mention of "sex" in Plaintiffs' original Complaint or any implication that Plaintiffs' sexual life was involved in Plaintiffs' damages.

61. Following the August 2, 1997, *Philadelphia Daily News* article, Plaintiffs and their counsel made it clear in various interviews that there was no contention in the July 21, 1997, Complaint that Plaintiffs' sex life had anything to do with the sixty-six paragraph Complaint, and Plaintiffs stated unequivocally that they were not seeking any damages based upon their private sex life.

62. Plaintiffs filed an Amended Complaint on September 2, 1997, adding Defendant Fischbein and adding two counts specifically directed to Defendant Fischbein and his defamatory sexual comments.

> 45. Defendant Co-administrator of the Estate of Tupac Shakur has continued to defame and harass plaintiff by holding her up in a false light even after the complaint in this matter was filed on June [sic] 21, 1997.

46. Defendant Fishbein [sic] made false and misleading statements regarding the claim herein, through published statements that C. Delores Tucker filed suit because of a "loss of her sex life." This statement was untrue, and Defendant Fishbein [sic] should have known it was untrue.

63. Despite the dictionary's definition of "consortium" and Defendant Fischbein's knowledge as a lawyer, the consortium claims only rarely involve an individual's sex life, and despite the fact that Plaintiffs and their counsel had unequivocally stated that there was no claim for any effect upon Plaintiffs' sex life with respect to their July 21, 1997, action, Defendant Fischbein continued to categorize Plaintiff's Complaint as one exclusively limited to the effects upon Plaintiffs' sex life.

64. As a result of Defendant Fischbein's actions and as a result of additional interviews with Defendant Fischbein, the news media generally and *Newsweek* particularly in a September 1, 1997, article by Defendant Johnnie L. Roberts entitled "Legal Affairs Grabbing at a Dead Star" stated:

> Fischbein fairly smirks about the suit by Tucker, a persistent crusader against gangsta rap. On an album last year, Tupac addressed Tucker as a "mother-f—ker," and he suggested that she was a prostitute—at least that's what she alleges in a lawsuit against the estate, Death Row and others. Among other things, she asserts that she feared for her life, had been humiliated and can no longer have sex with her husband. Says Fischbein: "I can't wait to hear her testimony on that subject." Her attorney, Richard Angino, says the lyrics "affected the family union." On that note Tupac will rest in peace.

Exhibit "D".

65. As a result of Defendant Fischbein's actions and interviews, and Defendant *Newsweek's* article, Defendant Belinda Luscombe, writer, employee, servant, and agent of Time Warner playing follow the leader wrote an article in the People Section of the September 22, 1997, issue of *Time* entitled "Shakur Booty":

> The prize for the most bizarre suit, however, goes to anti-rap warrior C. DeLores Tucker, who claims that lewd remarks made about her on Shakur's album *All Eyez on Me* caused her so much distress that she and her husband have not been able to have sex. She wants $10 million.

Exhibit "E".

66. Defendant Fischbein in his initial mischaracterization of Plaintiffs' lawsuit and in his continued interviews on the subject, knew that what he was saying was false and defamatory, contrary to Webster's definition of "consortium" and contrary to the Plaintiffs' and their counsel's extra judicial and Amended Complaint statements on the subject.

67. Defendant Fischbein knew that what he was saying about Plaintiffs' sex life would result in embarrassment and humiliation because of the private, intimate nature of the false and defamatory allegations, the Plaintiffs' religious and moral background and yet Defendant Fischbein persisted in repeating same.

68. Defendant Fischbein also knew that the false statements that he was giving would result in the media misrepresenting to the public that Plaintiffs' suit was frivolous. Defen-

dant Fischbein made such statements for that specific purpose and, as a result, has attempted to influence potential jurors.

69. Since the original lawsuits brought against C. Delores Tucker, the release of the aforementioned recording, the institution of the initial lawsuit, and Defendants', and particularly Defendant Fischbein's responses to same, Plaintiff C. Delores Tucker and her husband, William Tucker, have suffered defamation of character and reputation, humiliation, insult, and injury.

70. Plaintiff, who is frequently called upon to speak at churches throughout the country, is a moral and religious daughter of a well-known, respected Philadelphia minister, now deceased, and has siblings, extensive family, relatives, and thousands of friends in Philadelphia and throughout the country and world, who have heard or heard about the aforementioned recordings, original lawsuits and Defendants', particularly Defendant Fischbein's, characterization of this lawsuit.

71. As a result, Plaintiff C. Delores Tucker, has incurred medical expense; has undergone mental pain, suffering, and inconvenience; loss of life's pleasures; fears for her life; has lost her personal freedom to travel freely where and when she desires; has suffered from insomnia, high blood pressure, severe headaches, weight loss and weakness; and claim is made therefor.

72. As a result of the aforesaid injuries, Plaintiff C. Delores Tucker will incur medical expense; will undergo mental

pain, suffering, and great inconvenience; loss of life's pleasures; fear for her life; lose her personal freedom to travel freely where and when she desires; suffers from insomnia, high blood pressure, severe headaches, weight loss and weakness; and claim is made therefor.

73. As a result, Plaintiff C. Delores Tucker has been, and in the future will be, subject to great humiliation and embarrassment, and claim is made therefor.

74. Plaintiff's husband, William Tucker, has, as a result of his wife's injuries, suffered a loss of his wife's consortium per Webster's definition:

> 3 : the legal right of one spouse to the company, affection, and service of the other

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand judgement against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT I—PRELIMINARY INJUNCTION

C. Delores Tucker and William Tucker v. MTS, Inc.; t/a Tower Records, Interscope Inc.; Interscope Records; Ted Field; Time Warner, Inc.; James Iovine; Seagram Co.; MCA Inc.; Death Row Records, Inc.; David Kenner; Estate of Tupac Shakur; Richard Fischbein Individually, and as co-administrator of the Estate of Tupac Shakur; Afeni Shakur, Individually and as Co-Administratrix of the Estate of Tupac Shakur; Priority Records, Inc.; Thorn-EMI; and EMI Music

75. Paragraphs I through 74 of this Complaint are incorporated herein by reference.

76. Plaintiffs have been and will continue to be irreparably harmed by the distribution and sale of the aforementioned gangsta rap recording "All Eyez On Me" by Defendants', particularly Defendant Fischbein's, continued mischaracterization of the instant lawsuit as one based upon Plaintiffs' private, intimate sex life.

77. Plaintiffs will incur and/or continue to incur medical expenses, undergo mental pain, suffering, and inconvenience, loss of life's pleasures, fear for their lives, loss of personal freedom to travel freely throughout the United States, continue to suffer from insomnia, high blood pressure, severe headaches, weight loss, and weakness unless and until Defendants cease to sell "All Eyez On Me" and/or characterize the instant lawsuit as one based upon Plaintiffs' private sex life.

78. Therefore, Defendants should be enjoined from the distribution of the aforementioned recording entitled "All

Eyez On Me" and the mischaracterization of the instant lawsuit as one based upon Plaintiffs' private sex life.

WHEREFORE, Plaintiffs respectfully request that this Court enjoin the Defendants from the distribution and sale of the aforementioned recording entitled "All Eyez On Me" and order Defendants to cease and desist in mischaracterization of the instant lawsuit as one based upon Plaintiffs' private, personal sex lives.

COUNT II—INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

C. Delores Tucker and William Tucker v. MTS, Inc.; t/a Tower Records, Interscope Inc.; Interscope Records; Ted Field; Time Warner, Inc.; James Iovine; Seagram Co.; MCA Inc.; Death Row Records, Inc.; David Kenner; Estate of Tupac Shakur; Richard Fischbein Individually, and as co-administrator of the Estate of Tupac Shakur; Afeni Shakur, Individually and as Co-Administratrix of the Estate of Tupac Shakur; Priority Records, Inc.; Thorn-EMI; and EMI Music

79. Paragraphs 1 through 78 of this Complaint are incorporated herein by reference.

80. All of Defendants' conduct previously related was intended to inflict or cause Plaintiffs emotional distress and was successful in causing such distress.

81. As a result, Plaintiff C. Delores Tucker has suffered from physical manifestations of her emotional distress including, but not limited to, insomnia, high blood pressure, severe headaches, weight loss, and weakness.

82. All of Defendants' conduct as related above was extreme and outrageous, and because of its intentional and reckless nature, entitles Plaintiff to punitive damages for which a claim is made.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand judgment against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT III—SLANDER

C. Delores Tucker and William Tucker v. MTS, Inc.; t/a Tower Records, Interscope Inc.; Interscope Records; Ted Field; Time Warner, Inc.; James Iovine; Seagram Co.; MCA Inc.; Death Row Records, Inc.; David Kenner; Estate of Tupac Shakur; Richard Fischbein Individually, and as co-administrator of the Estate of Tupac Shakur; Afeni Shakur, Individually and as Co-Administratrix of the Estate of Tupac Shakur; Priority Records, Inc.; Thorn-EMI; and EMI Music

83. Paragraphs 1 through 82 of this Complaint are incorporated herein by reference.

84. Deceased Defendant Tupac Shakur's aforementioned lyrics referring to Plaintiff C. Delores Tucker in "All Eyez On Me" were false and defamatory when produced, marketed, distributed, and sold.

85. Deceased Defendant Tupac Shakur's aforementioned defamatory lyrics were produced with malice, meaning that said lyrics were produced with knowledge that they were false.

86. Defendants, other than Deceased Defendant Tupac Shakur, knowingly participated in the creation, marketing,

distribution, and sale of the slanderous recording "All Eyez On Me" and refused to recall same even though there was precedent involving antisemitic lyrics by Michael Jackson.

87. Defendants' actions, particularly those of Defendant Fischbein, following the filing of the original Complaint in this action, which mischaracterize same as being one based upon Plaintiffs' private, personal sex life, was false and defamatory, said with malice, and intended to humiliate, embarrass, and defame Plaintiffs and ridicule Plaintiffs' action as being frivolous or absurd.

88. As a result of Defendants' conduct, Plaintiffs' reputation has been subject to ridicule, insult, and their reputation damaged.

89. Defendants' actions as set forth above constituted extreme and outrageous conduct that evidence a wanton disregard for the safety and well-being of Plaintiffs sufficient to merit an award of punitive damages, and claim is made therefor.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand punitive judgement against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT IV—INVASION OF PRIVACY

C. Delores Tucker and William Tucker v. MTS, Inc.; t/a Tower Records, Interscope Inc.; Interscope Records; Ted Field; Time Warner, Inc.; James Iovine; Seagram Co.; MCA Inc.; Death Row Records, Inc.; David Kenner; Estate of Tupac Shakur; Richard Fischbein Individually, and as co-administrator of the Estate of Tupac Shakur; Afeni Shakur, Individually and as Co-Administratrix of the Estate of Tupac Shakur; Priority Records, Inc.; Thorn-EMI; and EMI Music

90. Paragraphs 1 through 89 of this Complaint are incorporated herein by reference.

91. Deceased Defendant Tupac Shakur's lyrics contained in the aforementioned recording "All Eyez On Me" were intentionally created, recorded, marketed/distributed, sold, and not recalled for the purpose of intruding upon the private affairs and concerns of Plaintiff C. Delores Tucker and her husband.

92. All Defendants appropriated to their own use and benefit, the name of C. Delores Tucker by creating, recording, marketing/distributing, selling and not recalling the aforementioned recording "All Eyez On Me.".

93. All Defendants participated in various ways in placing Plaintiff C. Delores Tucker and her husband before the public in a false light of a kind highly offensive to the reasonable man by creating, recording, marketing/distributing, selling and not recalling the aforementioned recording "All Eyez On Me."

94. All Defendants participated in various ways in unreasonably and seriously interfering with Plaintiff C. Delores

Tucker's interest in not having her name or likeness exhibited to the public by creating, recording, marketing/distributing, selling and not recalling the aforementioned recording "All Eyez On Me."

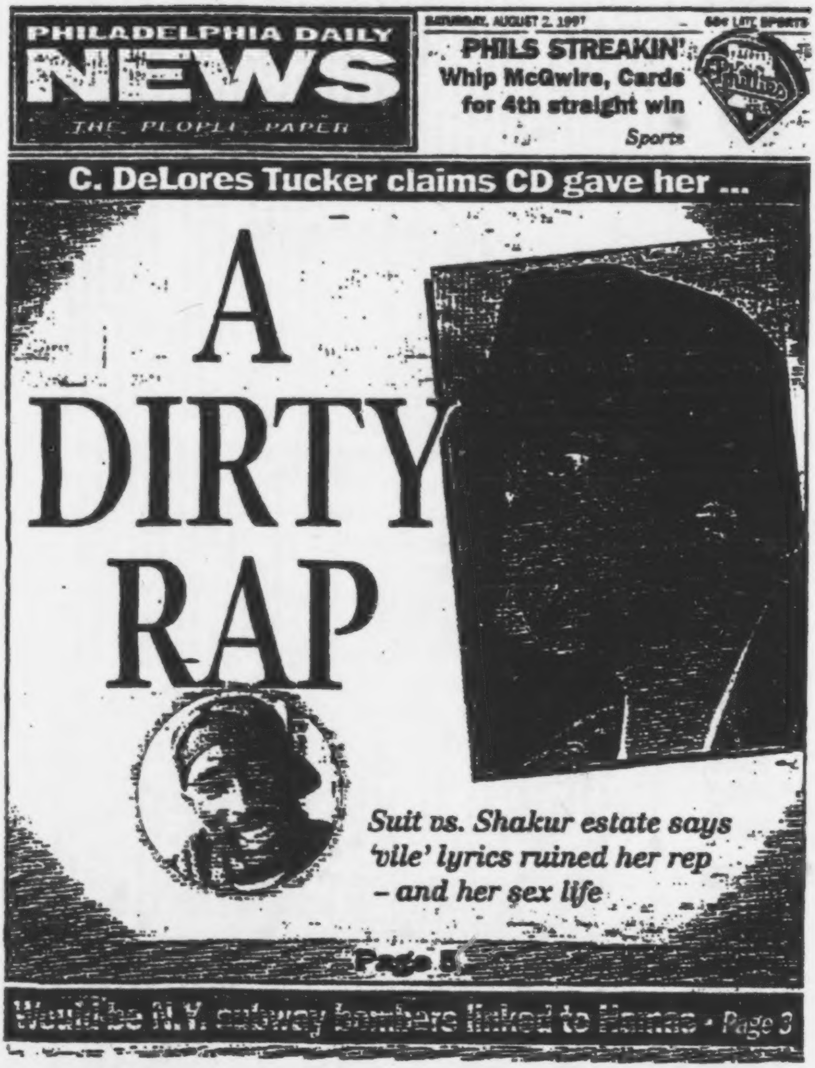
95. All of the Defendants, particularly Defendant Fischbein, by mischaracterizing this cause of action as one based upon Plaintiffs' private, personal, and intimate sex life was done to humiliate, embarrass, and expose Plaintiffs to ridicule and their private lives as a part of the public domain, to place her in a false light, and for the purpose of affecting potential jurors in an adverse way all of which conduct is outrageous and requires the imposition of punitive damages for which claim is made.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand compensatory and punitive judgement against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

ANGINO & ROVNER, P.C.
/S/Richard C. Angino, Esquire
Attorney I.D. No. 07140
4503 North Front Street
Harrisburg, PA 17110
Counsel for Plaintiff

Dated: 9/30/97

EXHIBIT "C"



PHILADELPHIA DAILY
NEWS
THE PEOPLE PAPER

SATURDAY, AUGUST 2, 1997 — 50¢ LATE SPORTS

PHILS STREAKIN'
Whip McGwire, Cards for 4th straight win
Sports

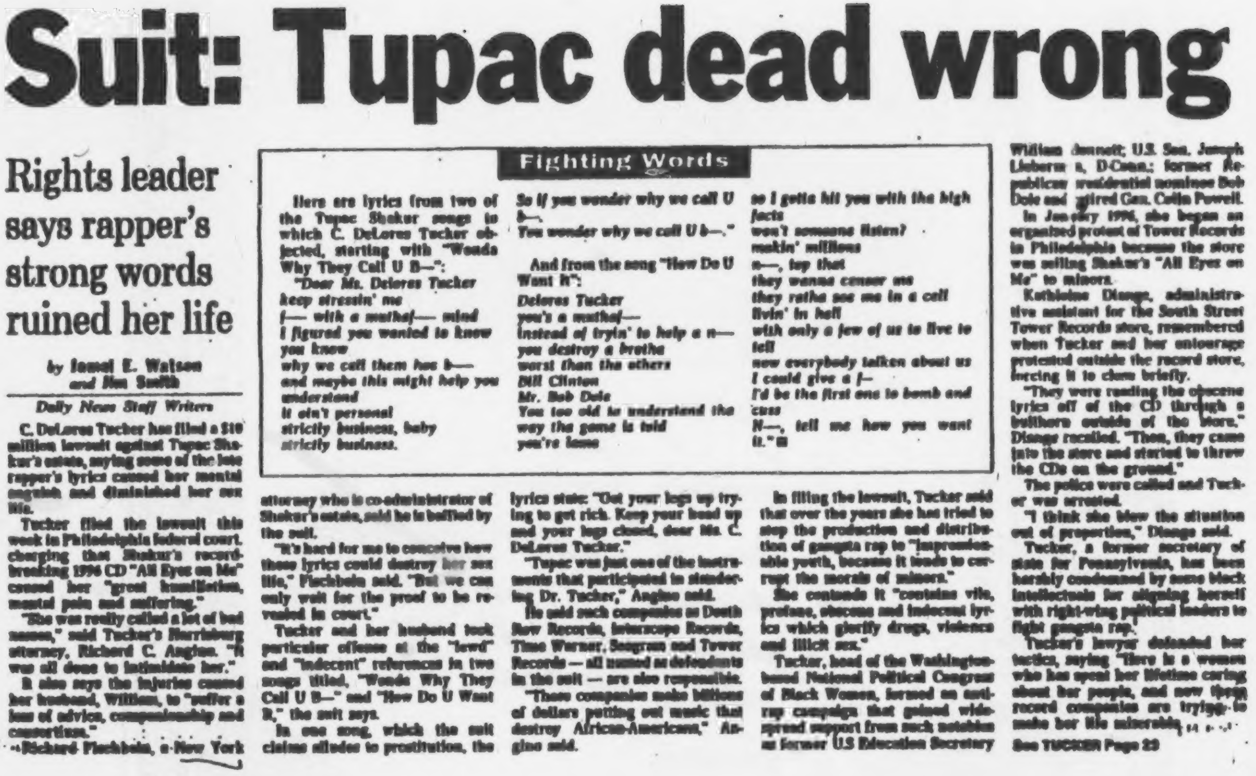
C. DeLores Tucker claims CD gave her ...

A DIRTY RAP

Suit vs. Shakur estate says 'vile' lyrics ruined her rep – and her sex life

Page 5

Would-be N.Y. subway bombers linked to Hamas • Page 3



Suit: Tupac dead wrong

Rights leader says rapper's strong words ruined her life

by Jamal E. Watson and Jim Smith

Daily News Staff Writers

C. DeLores Tucker has filed a $10 million lawsuit against Tupac Shakur's estate, saying some of the late rapper's lyrics caused her mental anguish and diminished her sex life.

Tucker filed the lawsuit this week in Philadelphia federal court, charging that Shakur's record-breaking 1996 CD "All Eyes on Me" caused her "great humiliation, mental pain and suffering."

"She was really called a lot of bad names," said Tucker's Harrisburg attorney, Richard C. Angino. "It was all done to intimidate her."

It also says the injuries caused her husband, William, to "suffer a loss of advice, companionship and consortium."

Richard Fischbein, a New York attorney who is co-administrator of Shakur's estate, said he is baffled by the suit.

"It's hard for me to conceive how these lyrics could destroy her sex life," Fischbein said. "But we can only wait for the proof to be revealed in court."

Tucker and her husband took particular offense at the "lewd" and "indecent" references in two songs titled, "Wonda Why They Call U B—" and "How Do U Want It," the suit says.

In one song, which the suit claims alludes to prostitution, the lyrics state: "Get your legs up trying to get rich. Keep your head up and your legs closed, dear Ms. C. DeLores Tucker."

"Tupac was just one of the instruments that participated in slandering Dr. Tucker," Angino said.

He said such companies as Death Row Records, Interscope Records, Time Warner, Seagram and Tower Records — all named as defendants in the suit — are also responsible.

"These companies make billions of dollars putting out music that destroy African-Americans," Angino said.

In filing the lawsuit, Tucker said that over the years she has tried to stop the production and distribution of gangsta rap to "impressionable youth, because it tends to corrupt the morals of minors."

She contends it "contains vile, profane, obscene and indecent lyrics which glorify drugs, violence and illicit sex."

Tucker, head of the Washington-based National Political Congress of Black Women, formed an anti-rap campaign that gained widespread support from such notables as former U.S Education Secretary William Bennett; U.S. Sen. Joseph Lieberman, D-Conn.; former Republican presidential nominee Bob Dole and retired Gen. Colin Powell.

In January 1996, she began an organized protest of Tower Records in Philadelphia because the store was selling Shakur's "All Eyes on Me" to minors.

Kathleen Dienge, administrative assistant for the South Street Tower Records store, remembered when Tucker and her entourage protested outside the record store, forcing it to close briefly.

"They were reading the obscene lyrics off of the CD through a bullhorn outside of the store," Dienge recalled. "Then, they came into the store and started to throw the CDs on the ground."

The police were called and Tucker was arrested.

"I think she blew the situation out of proportion," Dienge said.

Tucker, a former secretary of state for Pennsylvania, has been harshly condemned by some black intellectuals for aligning herself with right-wing political leaders to fight gangsta rap.

Tucker's lawyer defended her tactics, saying "Here is a woman who has spent her lifetime caring about her people, and now these record companies are trying to make her life miserable."

See TUCKER Page 23

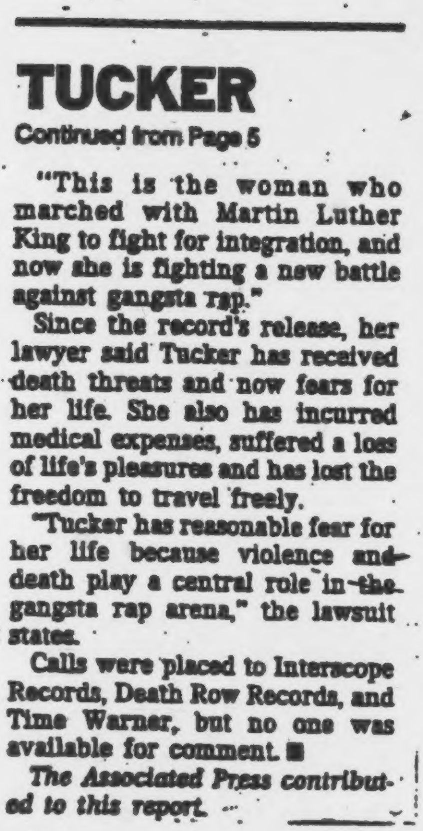
Fighting Words

Here are lyrics from two of the Tupac Shakur songs to which C. DeLores Tucker objected, starting with "Wonda Why They Call U B—":

"Dear Ms. Delores Tucker
keep stressin' me
f— with a muthaf— mind
I figured you wanted to know
you know
why we call them hos b—
and maybe this might help you understand
it ain't personal
strictly business, baby
strictly business.
So if you wonder why we call U b—.
You wonder why we call U b—."

And from the song "How Do U Want It":

Delores Tucker
you's a muthaf—
instead of tryin' to help a n—
you destroy a brotha
worst than the others
Bill Clinton
Mr. Bob Dole
You too old to understand the way the game is told
you're lame
so I gotta hit you with the high facts
won't someone listen?
makin' millions
n—, top that
they wanna censor me
they ratha see me in a cell
livin' in hell
with only a few of us to live to tell
now everybody talken about us
I could give a f—
I'd be the first one to bomb and cuss
N—, tell me how you want it." ■



TUCKER

Continued from Page 5

"This is the woman who marched with Martin Luther King to fight for integration, and now she is fighting a new battle against gangsta rap."

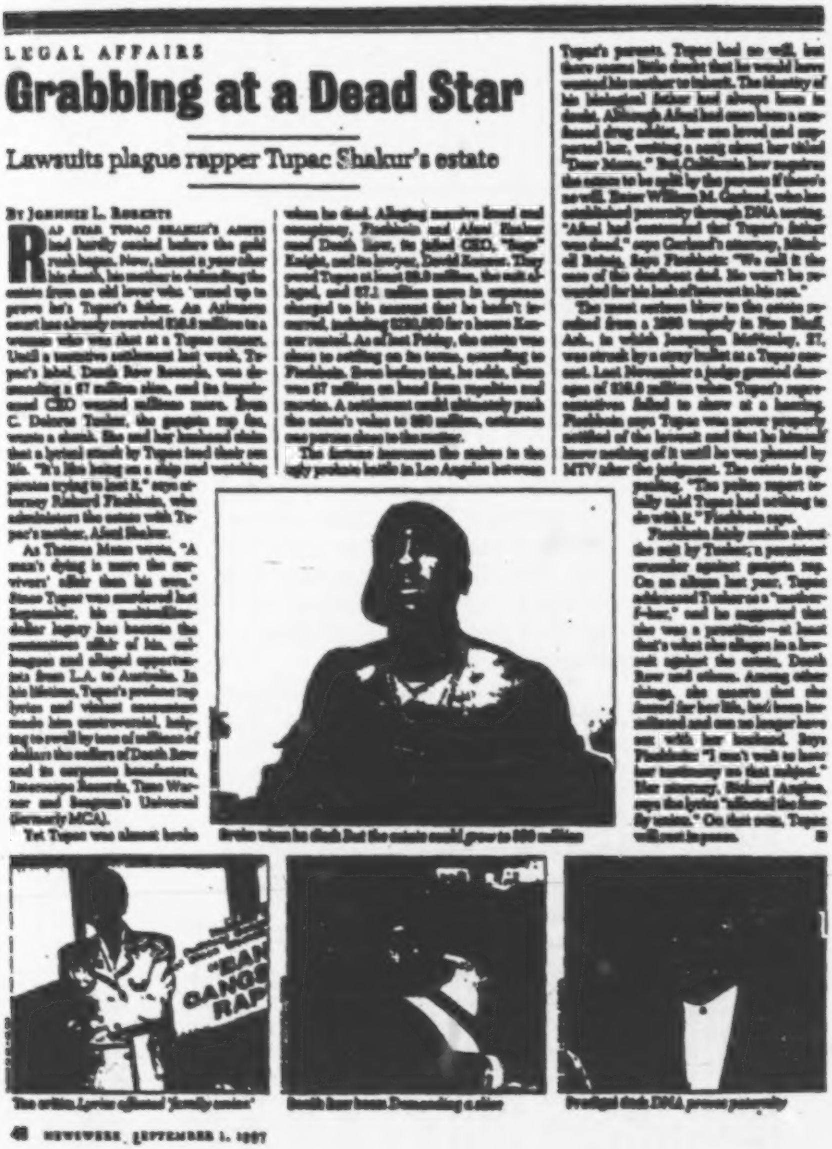
Since the record's release, her lawyer said Tucker has received death threats and now fears for her life. She also has incurred medical expenses, suffered a loss of life's pleasures and has lost the freedom to travel freely.

"Tucker has reasonable fear for her life because violence and death play a central role in the gangsta rap arena," the lawsuit states.

Calls were placed to Interscope Records, Death Row Records, and Time Warner, but no one was available for comment. ■

The Associated Press contributed to this report.

EXHIBIT "D"



LEGAL AFFAIRS

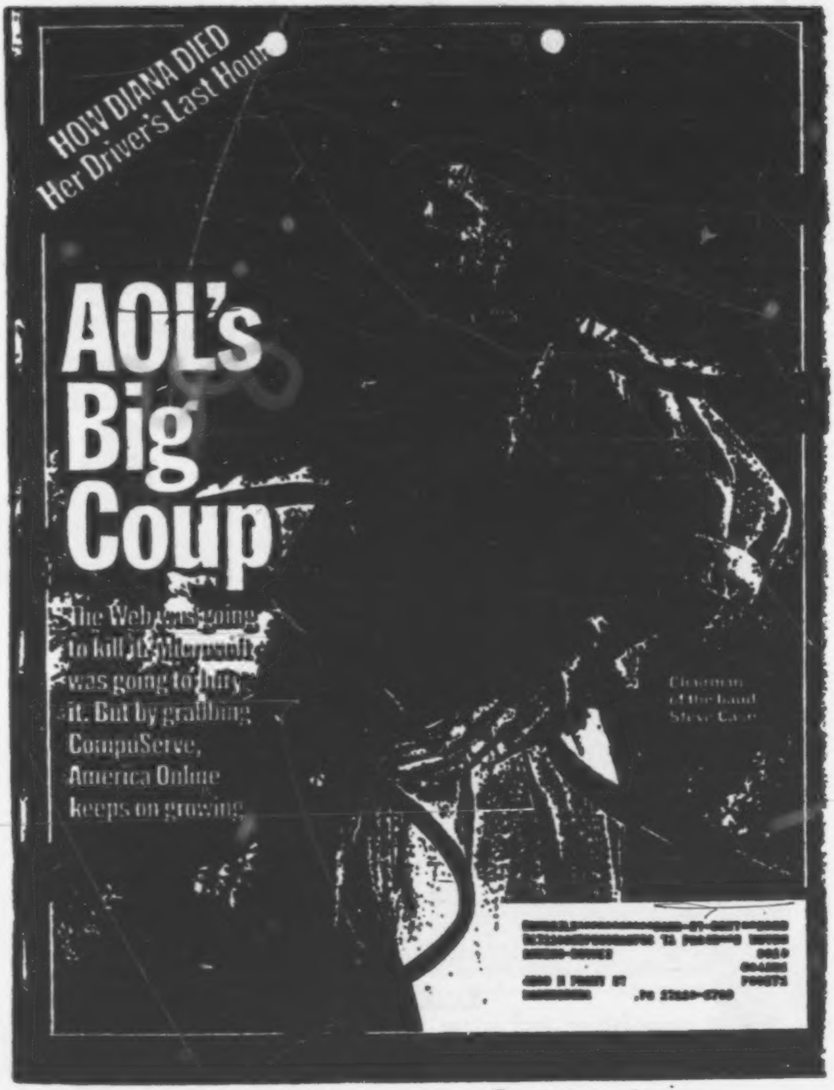
Grabbing at a Dead Star

Lawsuits plague rapper Tupac Shakur's estate

BY JOHNNIE L. ROBERTS

48 NEWSWEEK, SEPTEMBER 1, 1997

EXHIBIT "E"

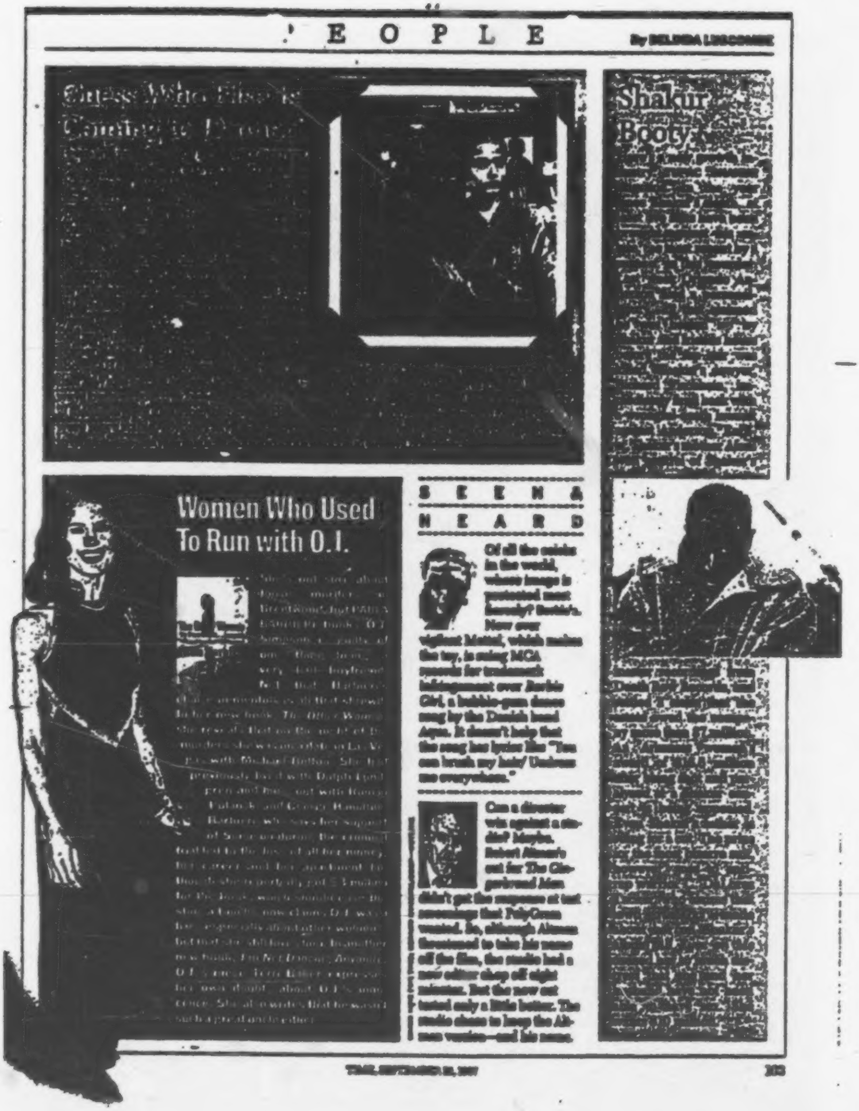


HOW DIANA DIED
Her Driver's Last Hour

AOL's
Big
Coup

The Web was going to kill it, Microsoft was going to bury it. But by grabbing CompuServe, America Online keeps on growing

Chairman
of the band
Steve Case



PEOPLE

By BELINDA LUSCOMBE

Guess Who Else Is Coming to Dinner

[illegible]

Shakur Booty

[illegible]

Women Who Used To Run with O.J.

[illegible]

SEEN & HEARD

Of all the entities in the world, whose image is protected most fiercely? Barbie's. Now ever vigilant Mattel, which makes the toy, is suing MCA records for trademark infringement over *Barbie Girl*, a bubble-gum dance song by the Danish band Aqua. It doesn't help that the song has lyrics like "You can brush my hair/ Undress me everywhere."

Can a director win against a studio? Maybe. Robert Altman's cut for *The Gingerbread Man* didn't get the response at test screenings that PolyGram wanted. So, although Altman threatened to take his name off the film, the studio had a new editor chop off eight minutes. But the new cut tested only a little better. The studio chose to keep the Altman version—and his name.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JURY TRIAL DEMANDED

NO. 97-cv-6150

CIVIL ACTION—LAW

C. DELORES TUCKER and
WILLIAM TUCKER, her husband,

Plaintiffs

RICHARD FISCHBEIN, TIME WARNER, INC.,
BELINDA LUSCOMBE, NEWSWEEK MAGAZINE,
and JOHNNIE L. ROBERTS

JUDGE BUCKWALTER

COMPLAINT

FILE OCT 01 1997

1. C. Delores Tucker is the chair of the non-profit National Congress of Black Women, Inc. She is the former Secretary of State of the Commonwealth of Pennsylvania and a member of NAACP National Board of Trustees.

2. Plaintiff C. Delores Tucker and William Tucker are husband and wife and reside in the Eastern District of the Commonwealth of Pennsylvania.

3. Defendant Richard Fischbein is the co-administrator of the Estate of Tupac Shakur, with his residence in a state other than the Commonwealth of Pennsylvania.

4. Defendant Time Warner, Inc. is a corporation with its principal place of business in a state other than the Commonwealth of Pennsylvania.

5. Defendant Belinda Luscombe is a resident of a state other than the Commonwealth of Pennsylvania.

6. Defendant Newsweek has its principal place of business in a state other than the Commonwealth of Pennsylvania.

7. Defendant Johnnie L. Roberts is a resident of a state other than the Commonwealth of Pennsylvania.

8. On or about July 21, 1997, Plaintiffs filed a complaint in the Eastern District of Pennsylvania, Civil Action No. 97-CV-4717.

9. In their July 21, 1997, complaint, Plaintiffs averred:

> 1. C. Delores Tucker is the chair of the nonprofit National Congress of Black Women, Inc. She is the former Secretary of State of the Commonwealth of Pennsylvania and Chair of the Democratic National Committee Black Caucus and the National Board of N.A.A.C.P.
>
> ⁂
>
> 23. Prior to February, 1996, Plaintiff C. Delores Tucker was the leader of a large group of religious, moral, and law abiding citizens who marched, lobbied, and campaigned against the pornographic and drug oriented misogynistic lyrics of "gangsta" rap as created, promoted, distributed, and marketed by various defendants to minors without restriction.
>
> ⁂
>
> 26. Plaintiff has focused her attention on stopping the production and distribution of said music to impressionable youth, because it tends to corrupt the morals of minors, in violation of 18 Pa.C.S.A. §6301(a), that some of it is obscene and unprotected by the Constitution, and

some is "explicitly sexual material" in violation of 18 Pa.C.S.A. §5903(c).

27. Said efforts met with widespread support across political, racial and economic lines, including support from William Bennett, former U.S. Secretary of Education, U.S. Senator Joseph Lieberman, Majority Leader and Vice Presdential candidate Robert Dole, and General Colin Powell.

28. In February, 1996, Defendant Interscope Records, distributed under its label, "All Eyez On Me", which is a record containing music performed by deceased Defendant recording gangsta rap superstar Tupac Shakur and produced by Defendant Death Row Records.

29. Contained on the aforementioned recording entitled "All Eyez on Me" are recordings entitled "Wonda Why they Call B" and "How Do You Want It."

30. Contained in the aforementioned recording entitled "How Do You Want It" were lyrics stating "C. Delores Tucker you're a mother fucker, instead of trying to help a brother you destroy a nigga."

31. Contained in the aforementioned recording entitled "Wonda Why they Call B" were lyrics stating "Got your legs up trying to get rich. Keep your head up and your legs closed Dear Ms. Delores Tucker" alluding to prostitution and tells why women are called bitches.

* * *

36. Sometime after February 1, 1996, Defendant MTS, Inc., under the trade name of Tower Records, nevertheless offered for sale and sold to minors the aforementioned sound recording entitled "All Eyez On Me", and other gangsta rap albums containing sexually explicit messages, offensively coarse language and lewd and indecent words about Plaintiff C. Delores Tucker.

37. Defendants all participated in various ways, in the conceiving of the idea, creating the recording, the

> marketing/distributing and not recalling "All Eyez On Me" which contained sexually explicit messages, offensively coarse language, and lewd and indecent words about Plaintiff C. Delores Tucker in violation of 18 Pa. C.S.A. §5504.
>
> 38. In August, 1995, Defendant Interscope filed suit against Plaintiff C. Delores Tucker in California charging her, *inter alia,* with Inducement to Breach the Contract between Death Row and Interscope.
>
> 39. Defendants knew full well that Plaintiff had done no such thing and filed the false claim only to embarrass her, to cause emotional distress and to deter her crusade against gangsta rap.
>
> 40. In May, 1997, the U.S. District Court for the Central District of California (Case No. CV 95-5444), Judge M. Takasugi issued an opinion that there was no breach of contract and that Plaintiff did not induce a breach of the contract as alleged by Interscope, which of course they already knew.

10. Plaintiffs alleged in their July 21 complaint that the various named Defendants were liable to her on three counts which included: intentional infliction of emotional harm, slander, and invasion of privacy.

11. Plaintiffs averred that they were damaged in the following particulars:

> 41. Following the lawsuits and the release of the aforementioned recordings, Plaintiff, C. Delores Tucker has reasonable fear for her life because violence and death play a central role in the gangsta rap arena. Indeed, two prominent murders have been reported since the unsolved murder of Tupac Shakur in September, 1996.
>
> 42. Since the lawsuits and the release of the aforementioned recordings Plaintiff, C. Delores Tucker has received death threats.

43. The lawsuits and the release of the aforementioned recordings were intended to and did cause Plaintiff C. Delores Tucker severe emotional distress.

44. By using vile and offensive language, the recordings have held her up as an object of scorn to more than 5,000,000 people, including children in Philadelphia and elsewhere.

45. Since the lawsuits and the release of the aforementioned recordings Plaintiff C. Delores Tucker has suffered defamation of character and reputation.

46. Plaintiff, who is frequently called upon to speak at churches throughout the country, is a moral and religious daughter of a well-known, respected Philadelphia minister, now deceased, and has siblings, extensive family, relatives, and thousands of friends in Philadelphia and throughout the country and world, who have heard or heard about the said recording and lawsuit.

47. As a result, Plaintiff C. Delores Tucker, has incurred medical expense; has undergone mental pain, suffering, and inconvenience; loss of life's pleasures; fears for her life; has lost her personal freedom to travel freely where and when she desires; and claim is made therefor.

48. As a result of the aforesaid injuries, Plaintiff C. Delores Tucker will incur medical expense; will undergo mental pain, suffering, and great inconvenience; loss of life's pleasures; fear for her life; lose her personal freedom to travel freely where and when she desires; and claim is made therefor.

49. As a result, Plaintiff C. Delores Tucker has been, and in the future will be, subject to great humiliation and embarrassment, and claim is made therefor.

50. Plaintiff's husband, William Tucker has as a result of his wife's injuries, suffered a loss of advice, companionship and consortium.

12. The July 21, 1997, complaint was the basis for the Saturday, August 2, 1997, Philadelphia Daily News cover feature article (Exhibit "A").

13. The Philadelphia Daily News August 2, 1997, cover feature article quoted Defendant Richard Fischbein, a New York attorney who is co-administrator of Shakur's estate, "It's hard for me to conceive how these lyrics could destroy her sex life," "But we can only wait for the proof to be revealed in court."

14. Following the August 2, 1997, article, Plaintiffs and their counsel made it clear in various interviews that there was no contention in the July 21, 1997, complaint that Plaintiff's sex life had anything to do with the 66 paragraph complaint, and Plaintiffs were not seeking any damages based upon their private sex life.

15. Prior to September 1, 1997, Defendant Johnnie L. Roberts, writer for Newsweek Magazine, contacted Plaintiffs' counsel, Richard Angino, and said he had possession of the July 21, 1997, Complaint and was going to write a story involving Tupac Shakur.

16. All of Roberts' questions focused upon Defendant Fischbein's reference to Plaintiffs' sex life.

17. Plaintiffs' counsel referred Defendant Roberts to Paragraph 50 of Plaintiffs' Complaint and told him unequivocally that the complaint did not allege and Plaintiffs did not contend that the actions of Defendants related in the July 21, 1997, complaint had anything to do with their sex life and that

the loss of consortium claim in the complaint was limited to advice, society, companionship, i.e., Defendants' effect upon the "family union."

> 50. Plaintiff's husband, William Tucker has as a result of his wife's injuries, suffered a loss of advice, companionship and consortium.

18. *Webster's Ninth New Collegiate Dictionary* defines "consortium" as "3 : the legal right of one spouse to the company, affection, and service of the other".

19. Despite the dictionary's definition of consortium and Plaintiffs' attorney's explanation, and Plaintiff's interviews, Defendant Johnnie L. Roberts in his capacity as servant, agent, employee, and writer for Newsweek Magazine, and within his scope of employment wrote an article that appeared in Newsweek's September 1, 1997, issue entitled "Legal Affairs—Grabbing at a Dead Star" (Exhibit "B") and misrepresented Plaintiffs' complaint as being one that involved Mrs. Tucker's inability to have sex with her husband.

> Fischbein fairly smirks about the suit by Tucker, a persistent crusader against gangsta rap. On an album last year, Tupac addressed Tucker as a "mother-f—ker," and he suggested that she was a prostitute—at least that's what she alleges in a lawsuit against the estate, Death Row and others. Among other things, she asserts that she feared for her life, had been humiliated and can no longer have sex with her husband. Says Fischbein: "I can't wait to hear her testimony on that subject." Her attorney, Richard Angino, says the lyrics "affected the family union." On that note Tupac will rest in peace.

20. As a result of the misrepresentations of Defendant Fischbein, Johnnie L. Roberts of Newsweek, and others, Plaintiffs filed an Amended Complaint on or about September 2, 1997, adding Defendant Richard Fischbein as a defendant in the July 21, 1997, action and asserted:

> 45. Defendant Co-administrator of the Estate of Tupac Shakur has continued to defame and harass Plaintiff by holding her up in a false light even after the complaint in this matter was filed on June [sic] 21, 1997.
>
> 46. Defendant Fishbein [sic] made false and misleading statements regarding the claim herein, through published statements that C. Delores Tucker filed suit because of a "loss of her sex life." This statement was untrue, and Defendant Attorney Fishbein [sic] should have known it was untrue.

21. Defendant Time Warner was served with a copy of Plaintiffs' Amended Complaint on September 9, 1997, and was, therefore, aware of paragraphs 45 and 46.

22. Despite the dictionary's definition and interviews given by Plaintiffs and their attorney, and despite the filing of the Amended Complaint and service on Time Warner, Defendant Belinda Luscombe, writer, employee, servant, and agent of Time Warner, and acting within the course and scope of her employment for Time Warner, wrote an article in the People section of the September 22, 1997, issue of Time (Exhibit "C") entitled "Shakur Booty" stating:

> The prize for the most bizarre suit, however, goes to anti-rap warrior C. DeLores Tucker, who claims that lewd remarks made about her on Shakur's album *All Eyez on Me* caused her so much distress that she and her husband have not been able to have sex. She wants $10 million.

23. For the purpose of sensationalism, Defendants Johnnie L. Roberts and Belinda Luscombe wrote their respective articles and Time and Newsweek published the defamatory and malicious articles to sell copy even though they all knew that there was no truth in what they wrote and published and what they wrote and published was going to humiliate and embarrass Plaintiffs.

24. Defendants' actions also were intended to, and undoubtedly resulted in, affecting potential jurors by asserting or implying that Plaintiffs were proceeding with a frivolous or "absurd" lawsuit.

25. Defendant Belinda Luscombe and Defendant Time Warner, by publishing the Shakur Booty article in the September 22, 1997, issue of *Time after being clearly put on notice* that there was no contention that Plaintiffs were making any claim based upon their sex life, constituted outrageous conduct, and a claim is made for punitive damages.

26. Defendant Johnnie L. Roberts who interviewed Plaintiffs' attorney and was assured that Plaintiffs' sex life was not involved in the lawsuit was guilty of outrageous conduct in writing his article "Grabbing at a Dead Star" and punitive damages are claimed against him and Newsweek.

27. Defendant Fischbein's actions as an attorney with knowledge of consortium claims and assurance that Plaintiffs' sex life was not a part of the July 21, 1997, Complaint is also guilty of outrageous conduct and claims made for punitive damages.

28. All of Defendants' actions have caused Plaintiffs additional mental pain and suffering humiliation, and damage to their reputations and claim is being made for same.

29. All of the Defendants' conduct was malicious, meaning that they knew that what they were saying, writing, and publishing was false and defamatory, as well as deleterious to potential jurors.

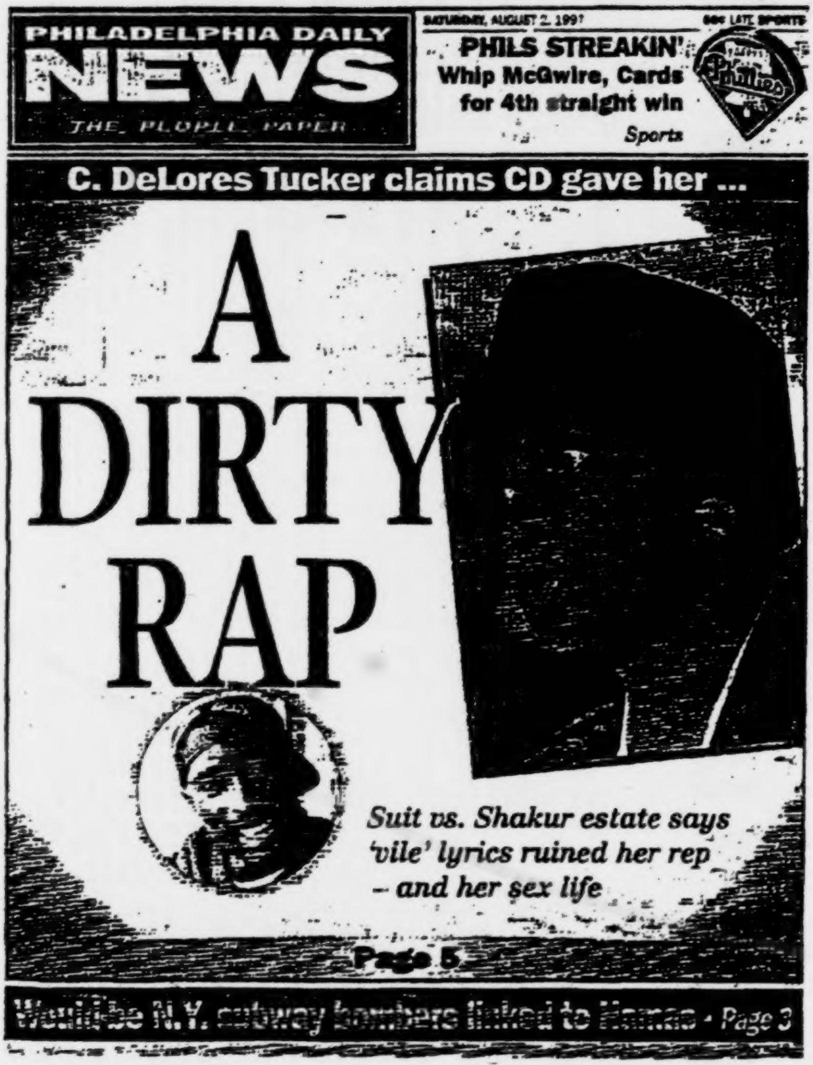
30. When called to task in an interview on a Chicago radio station, Defendant Johnnie L. Roberts stated that he was not a constitutional lawyer, and consequently could not evaluate the merits of Plaintiffs' July 21, 1997, lawsuit.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand compensatory and punitive damages against Defendants in an amount in excess of $5,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

ANGINO & ROVNER, P.C.
/s/Richard C. Angino, Esquire
I.D. No. 07140
4503 North Front Street
Harrisburg, PA 17110
Counsel for Plaintiffs

Dated: 9/30/97

EXHIBIT "A"



PHILADELPHIA DAILY

NEWS

THE PEOPLE PAPER

SATURDAY, AUGUST 2, 1997

50¢ LATE SPORTS

PHILS STREAKIN'

Whip McGwire, Cards for 4th straight win

Sports

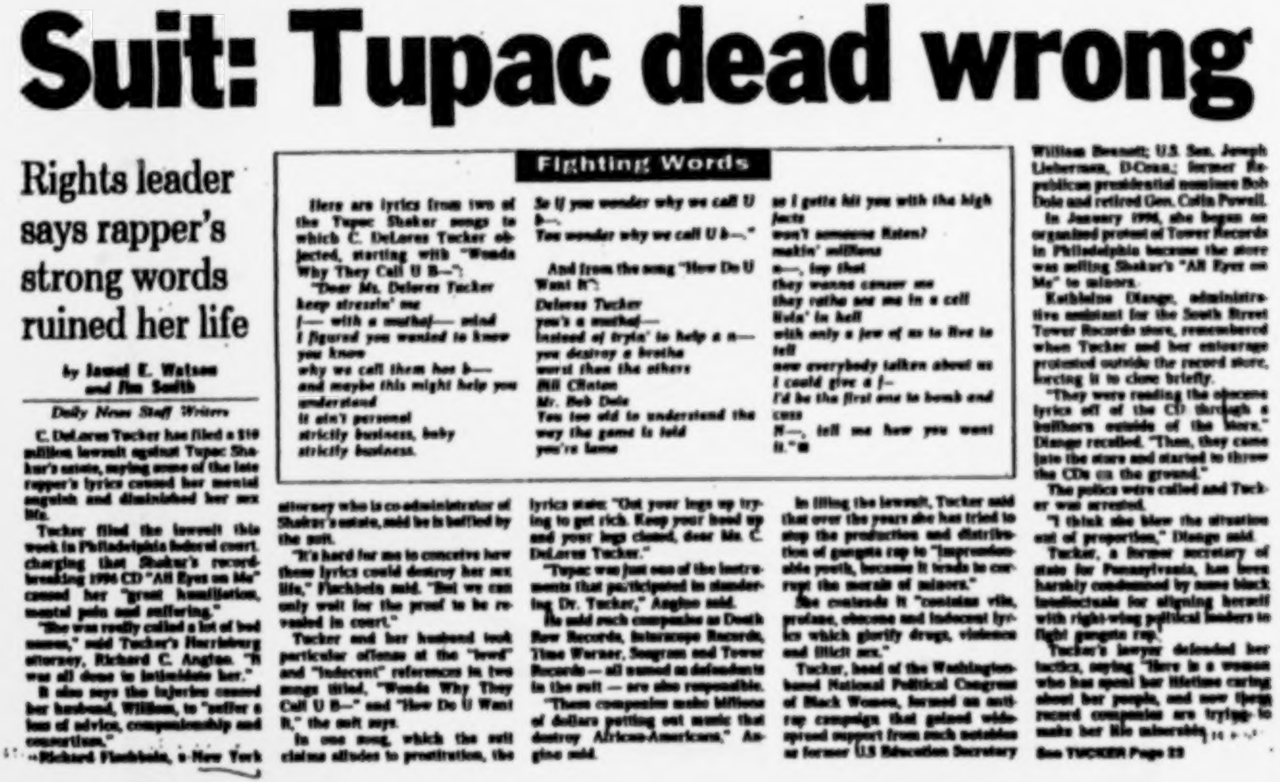
C. DeLores Tucker claims CD gave her ...

A DIRTY RAP

Suit vs. Shakur estate says 'vile' lyrics ruined her rep – and her sex life

Page 5

Would-be N.Y. subway bombers linked to Hamas · *Page 3*



Suit: Tupac dead wrong

Rights leader says rapper's strong words ruined her life

by Jamal E. Watson and Jim Smith

Daily News Staff Writers

C. DeLores Tucker has filed a $10 million lawsuit against Tupac Shakur's estate, saying some of the late rapper's lyrics caused her mental anguish and diminished her sex life.

Tucker filed the lawsuit this week in Philadelphia federal court, charging that Shakur's record-breaking 1996 CD "All Eyez on Me" caused her "great humiliation, mental pain and suffering."

"She was really called a lot of bad names," said Tucker's Harrisburg attorney, Richard C. Angino. "It was all done to intimidate her."

It also says the injuries caused her husband, William, to "suffer a loss of advice, companionship and consortium."

Richard Fischbein, a New York attorney who is co-administrator of Shakur's estate, said he is baffled by the suit.

"It's hard for me to conceive how these lyrics could destroy her sex life," Fischbein said. "But we can only wait for the proof to be revealed in court."

Tucker and her husband took particular offense at the "lewd" and "indecent" references in two songs titled, "Wonda Why They Call U B—" and "How Do U Want It," the suit says.

In one song, which the suit claims alludes to prostitution, the lyrics state: "Get your legs up trying to get rich. Keep your head up and your legs closed, dear Ms. C. DeLores Tucker."

"Tupac was just one of the instruments that participated in slandering Dr. Tucker," Angino said.

He said such companies as Death Row Records, Interscope Records, Time Warner, Seagram and Tower Records — all named as defendants in the suit — are also responsible.

"These companies make billions of dollars putting out music that destroy African-Americans," Angino said.

In filing the lawsuit, Tucker said that over the years she has tried to stop the production and distribution of gangsta rap to "impressionable youth, because it tends to corrupt the morals of minors."

She contends it "contains vile, profane, obscene and indecent lyrics which glorify drugs, violence and illicit sex."

Tucker, head of the Washington-based National Political Congress of Black Women, formed an anti-rap campaign that gained widespread support from such notables as former U.S. Education Secretary William Bennett; U.S. Sen. Joseph Lieberman, D-Conn.; former Republican presidential nominee Bob Dole and retired Gen. Colin Powell.

In January 1996, she began an organized protest of Tower Records in Philadelphia because the store was selling Shakur's "All Eyez on Me" to minors.

Kathleine Diange, administrative assistant for the South Street Tower Records store, remembered when Tucker and her entourage protested outside the record store, forcing it to close briefly.

"They were reading the obscene lyrics off of the CD through a bullhorn outside of the store," Diange recalled. "Then, they came into the store and started to throw the CDs on the ground."

The police were called and Tucker was arrested.

"I think she blew the situation out of proportion," Diange said.

Tucker, a former secretary of state for Pennsylvania, has been harshly condemned by some black intellectuals for aligning herself with right-wing political leaders to fight gangsta rap.

Tucker's lawyer defended her tactics, saying, "Here is a woman who has spent her lifetime caring about her people, and now these record companies are trying to make her life miserable."

See TUCKER Page 23

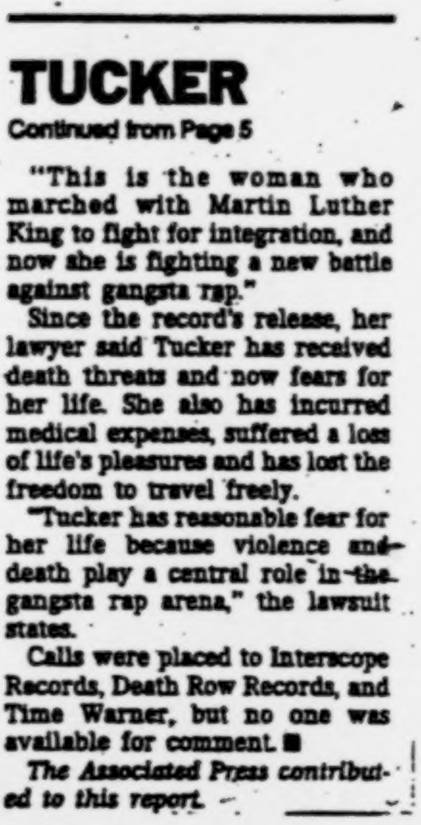
Fighting Words

Here are lyrics from two of the Tupac Shakur songs to which C. DeLores Tucker objected, starting with "Wonda Why They Call U B—":

"Dear Ms. Delores Tucker
keep stressin' me
f— with a muthaf— mind
I figured you wanted to know
you know
why we call them hoes b—
and maybe this might help you
understand
it ain't personal
strictly business, baby
strictly business.
So if you wonder why we call U
b—,
You wonder why we call U b—."

And from the song "How Do U Want It":

Delores Tucker
you's a muthaf—
instead of tryin' to help a n—
you destroy a brotha
worse than the others
Bill Clinton
Mr. Bob Dole
You too old to understand the
way the game is told
you're lame
so I gotta hit you with the high
facts
won't someone listen?
makin' millions
n—, top that
they wanna censor me
they rather see me in a cell
livin' in hell
with only a few of us to live to
tell
now everybody talkin' about us
I could give a f—
I'd be the first one to bomb and
cuss
N—, tell me how you want
it." ■



TUCKER

Continued from Page 5

"This is the woman who marched with Martin Luther King to fight for integration, and now she is fighting a new battle against gangsta rap."

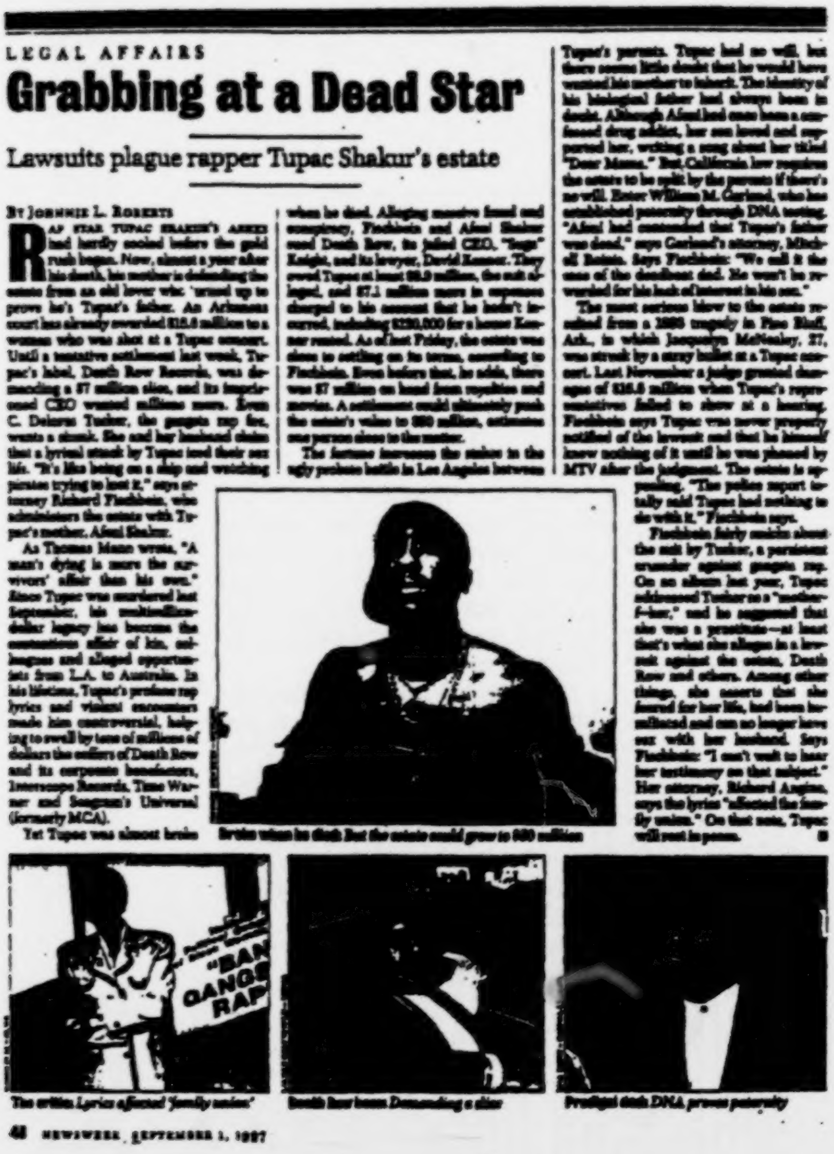
Since the record's release, her lawyer said Tucker has received death threats and now fears for her life. She also has incurred medical expenses, suffered a loss of life's pleasures and has lost the freedom to travel freely.

"Tucker has reasonable fear for her life because violence and death play a central role in the gangsta rap arena," the lawsuit states.

Calls were placed to Interscope Records, Death Row Records, and Time Warner, but no one was available for comment. ■

The Associated Press contributed to this report.

EXHIBIT "B"



LEGAL AFFAIRS

Grabbing at a Dead Star

Lawsuits plague rapper Tupac Shakur's estate

BY JOHNNIE L. ROBERTS

RAP STAR TUPAC SHAKUR'S ASHES had hardly cooled before the gold rush began. Now, almost a year after his death, his mother is defending the estate from an old lover who turned up to prove he's Tupac's father. An Arkansas court has already awarded $16.6 million to a woman who was shot at a Tupac concert. Until a tentative settlement last week, Tupac's label, Death Row Records, was demanding a $7 million slice, and its imprisoned CEO wanted millions more. Even C. Delores Tucker, the gangsta rap foe, wants a chunk. She and her husband claim that a lyrical attack by Tupac ruined their sex life. "It's like being on a ship and watching pirates trying to loot it," says attorney Richard Fischbein, who administers the estate with Tupac's mother, Afeni Shakur.

As Thomas Mann wrote, "A man's dying is more the survivors' affair than his own." Since Tupac was murdered last September, his multimillion-dollar legacy has become the contentious affair of kin, colleagues and alleged opportunists from L.A. to Australia. In his lifetime, Tupac's profane rap lyrics and violent encounters made him controversial, helping to swell by tens of millions of dollars the coffers of Death Row and its corporate benefactors, Interscope Records, Time Warner and Seagram's Universal (formerly MCA).

Yet Tupac was almost broke when he died. Alleging massive fraud and conspiracy, Fischbein and Afeni Shakur sued Death Row, its jailed CEO, "Suge" Knight, and its lawyer, David Kenner. They owed Tupac at least $9.3 million, the suit alleged, and $7.1 million more in expenses charged to his account that he hadn't incurred, including $250,000 for a house Kenner rented. As of last Friday, the estate was close to settling on its terms, according to Fischbein. Even before that, he adds, there was $7 million on hand from royalties and movies. A settlement could ultimately push the estate's value to $60 million, estimates one person close to the matter.

The fortune increases the stakes in the ugly probate battle in Los Angeles between Tupac's parents. Tupac had no will, but there seems little doubt that he would have wanted his mother to inherit. The identity of his biological father had always been in doubt. Although Afeni had once been a confessed drug addict, her son loved and supported her, writing a song about her titled "Dear Mama." But California law requires the estate to be split by the parents if there's no will. Enter William M. Garland, who has established paternity through DNA testing. "Afeni had contended that Tupac's father was dead," says Garland's attorney, Mitchell Beinin. Says Fischbein: "We call it the case of the deadbeat dad. He won't be rewarded for his lack of interest in his son."

The most serious blow to the estate resulted from a 1995 tragedy in Pine Bluff, Ark., in which Jacquelyn McNealey, 27, was struck by a stray bullet at a Tupac concert. Last November a judge granted damages of $16.6 million when Tupac's representatives failed to show at a hearing. Fischbein says Tupac was never properly notified of the lawsuit and that he himself knew nothing of it until he was phoned by MTV after the judgment. The estate is appealing. "The police report totally said Tupac had nothing to do with it," Fischbein says.

Fischbein fairly smirks about the suit by Tucker, a persistent crusader against gangsta rap. On an album last year, Tupac addressed Tucker as a "motherf---er," and he suggested that she was a prostitute—at least that's what she alleges in a lawsuit against the estate, Death Row and others. Among other things, she asserts that she feared for her life, had been humiliated and can no longer have sex with her husband. Says Fischbein: "I can't wait to hear her testimony on that subject." Her attorney, Richard Angino, says the lyrics "affected the family union." On that note, Tupac will rest in peace. ■

Broke when he died: But the estate could grow to $60 million

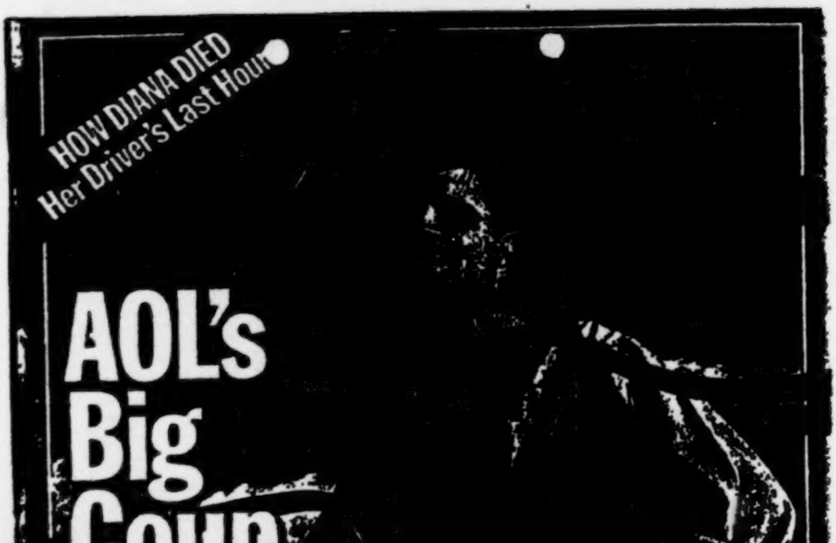
The critic: *Lyrics affected 'family union'*

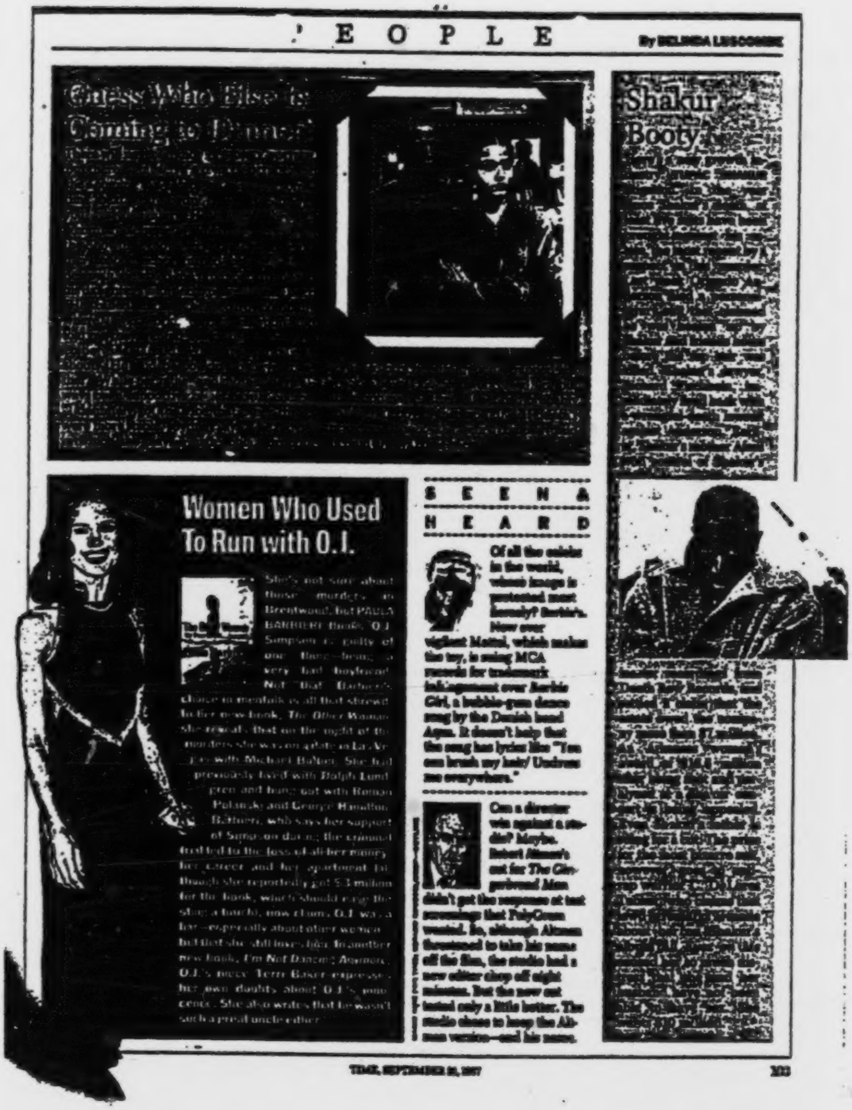
Death Row boss: *Demanding a slice*

Prodigal dad: *DNA proves paternity*

48 NEWSWEEK, SEPTEMBER 1, 1997

EXHIBIT "C"


HOW DIANA DIED
Her Driver's Last Hour
AOL's Big Coup
The Web was going to kill it. Microsoft was going to bury it. But by grabbing CompuServe, America Online keeps on growing
Chairman of the band Steve Case



PEOPLE

By BELINDA LUSCOMBE

Guess Who Else Is Coming to Dinner?

Shakur Booty

Women Who Used To Run with O.J.

She's not sure about those murders in Brentwood, but PAULA BARBIERI thinks O.J. Simpson is guilty of one thing—being a very bad boyfriend. Not that Barbieri's choice in menfolk is all that shrewd. In her new book, *The Other Woman*, she reveals that on the night of the murders she was on a date in Las Vegas with Michael Bolton. She had previously lived with Dolph Lundgren and hung out with Roman Polanski and George Hamilton. Barbieri, who says her support of Simpson during the criminal trial led to the loss of all her money, her career and her apartment (although she reportedly got $3 million for the book, which should ease the sting a bunch), now claims O.J. was a liar—especially about other women—but that she still loves him. In another new book, *I'm Not Dancing Anymore*, O.J.'s niece Terri Baker expresses her own doubts about O.J.'s innocence. She also writes that he wasn't such a great uncle either.

SEEN & HEARD

Of all the celebs in the world, whose image is protected most fiercely? Barbie's. Now ever vigilant Mattel, which makes the toy, is suing MCA Records for trademark infringement over *Barbie Girl*, a bubble-gum dance song by the Danish band Aqua. It doesn't help that the song has lyrics like "You can brush my hair/ Undress me everywhere."

Can a director win against a studio? Maybe. Robert Altman's cut for *The Gingerbread Man* didn't get the response at test screenings that PolyGram wanted. So, although Altman threatened to take his name off the film, the studio had a new editor chop off eight minutes. But the new cut tested only a little better. The studio chose to keep the Altman version—and his name.

TIME, SEPTEMBER 29, 1997 103

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION

NO. 97CV-4717

C. DELORES TUCKER and
WILLIAM TUCKER, her husband

vs

RICHARD FISCHBEIN as Co-Administrator and
AFENI SHAKUR as Co-Administratrix of the
Estate of TUPAC SHAKUR

Videotape deposition of C. DELORES TUCKER, taken at the offices of BALLARD, SPAHR, ANDREWS & INGERSOLL, 1735 Market Street, 49th Floor, Philadelphia, Pennsylvania, on Wednesday, July 15, 1998, at 9:34 a.m., before Julie M. Zanaras, a Federally Approved Reporter, Registered Professional Reporter, CSR and Notary Public.

ZANARAS REPORTING
REGISTERED PROFESSIONAL REPORTERS
1710-12 Locust Street
Philadelphia, Pennsylvania 19103
(215) 790-7857

A. July 20th.

Q.—and is it fair to say that you have maintained a close relationship with your husband during these 47 years of marriage?

A. Yes.

Q. You trust him completely?

A. Yes.

Q. And he's your lifelong companion?

A. First boyfriend.

Q. And nothing over the past five years has done anything to change the—the trust and loyalty that you have to your husband; is that correct?

A. That's correct.

Q. Mrs. Tucker, the album All Eyez On Me by Tupac Shakur, do you remember approximately when that album was released?

A. Oh, I guess it was—I guess about a year, two years ago.

Q. Would the date February of 19—in or about February of 1996 refresh your recollection as the month and the year that the album All Eyez On Me was released?

A. What year did you say?

Q. February of '96.

MR. ANGINO: I'll stipulate to it.

MR. WILLIAMS: Okay.

BY MR. WILLIAMS:

Q. And it's fair to say that that album had songs which contained lyrics referencing you; is that correct?

A. That's correct.

Q. And as a result of—or you allege that as a result of that album being released, you've received death threats; is that correct?

A. Before that.

Q. Before that. After the album All Eyez On Me was released, Mrs. Tucker, did your husband begin to travel with you more—

A. He did, yes. I traveled with someone.

Q. —to your various events for the anti-gangsta rap crusade?

A. That's correct.

Q. And also to the various events associated with the National Political Congress of Black Women?

A. That's correct.

Q. And during the past, let's say since February of 1996, have you had occasion to express your feelings about the lyrics contained in Tupac Shakur's album, All Eyez On Me about you to your husband?

A. I don't know when I got a call, but I do remember who called me about that.

Q. I don't think you got—I'm sorry, I don't mean to cut you off. I don't think you understood my question. Since the album All Eyez On Me was re—

MR. ANGINO: Since—since February of 1996.

BY MR. WILLIAMS:

Q. Since February of 1996 when the album All Eyez On Me was released, have you had occasion to express your feelings to your husband about the lyrics about you in Tupac Shakur's music?

A. Of course, yes.

Q. And can you tell me what you have told him?

A. Well, I can't specifically tell you what I told him. I was very much distressed by it.

Q. Did you express the fact that you were distressed about these lyrics to your husband?

A. Well, he knew I was distressed about the whole phenomenon of what has happened since I've gotten involved in this.

Q. Okay. Let's just stick with the—the lyrics first, and we'll get to the other stuff. Did you—can you remember the substance of what you told your husband during the past two and a half years about your feelings concerning the lyrics in Tupac's music about you?

A. Indeed. Yes, I did.

Q. Okay. And what—what did you tell your husband over the past two and a half years?

A. What I told—

MR. ANGINO: As best as you can remember.

THE WITNESS:—what I told him was that we had to stop this. We had to stop this kind of music. It certainly embarrassed me. It was—I was ridiculed. I was laughed at and all of this kind of thing, that children were saying look at C. DeLores Tucker, she's an MFer, and saying a lot of nasty things about me.

BY MR. WILLIAMS:

Q. So it's fair to say that over the past—

A. And he heard many of them.

Q. Go ahead, I'm sorry. I didn't mean to cut you off.

A. That's all right.

Q. So it's fair to say that during the past two and a half years, you've expressed the fact that you're very upset about these lyrics to your husband?

MR. DAVID: I'm going to object to the form. I mean, I've let you go along.

MR. WILLIAMS: Okay.

MR. DAVID: Ask proper questions.

MR. WILLIAMS: I am.

MR. DAVID: That's a leading question. It's improper.

MR. WILLIAMS: Well, it's—it's a deposition.

MR. DAVID: Fine. But it's still a leading question.

MR. WILLIAMS: Okay.

MR. DAVID: It's improper.

MR. WILLIAMS: Okay. I'm going—I'm—the question stands. Could you please—he has his objection. Could you read—please read it back for the witness.

(The court reporter read back the pending question.)

MR. ANGINO: I'm going to state this is the first time I've ever heard that opposing counsel can't lead—ask leading questions in a deposition but ...

MR. DAVID: Fine. I still object to the form.

MR. WILLIAMS: Okay.

BY MR. WILLIAMS:

Q. Did you—did you—did you hear the question, Mrs. Tucker?

A. Would you repeat it again?

Q. Sure.

(The court reporter read the pending question.)

THE WITNESS: Upset is not the word. Upset is not the word. I am a strong devout christian. My father, his brothers, my mother, strong people of faith. I was raised that way. Never cursed in my life. I don't drink, I don't smoke. I try to live a good christian life, and to be called an MFer and children looking at me and calling me that, look at her. I can't describe how it makes me feel.

BY MR. WILLIAMS:

Q. Well, did it—

A. I can't describe it.

Q. —did it make you angry?

MR. DAVID: Objection.

THE WITNESS: It made me angry that I'm ready to die to stop this kind of music from being disseminated to our children. I'm ready to die for it.

BY MR. WILLIAMS:

Q. Did it make—

A. That's how angry I am.

Q. —did it make you angry that those specific words—that there were words in the song referring to you?

MR. DAVID: Object to the form.

THE WITNESS: A song that was sold, yes, to five million plus and around the world, yes, to be known as that, a whore, yes.

BY MR. WILLIAMS:

Q. And did you express that anger to your husband?

A. I did. I did.

Q. And it's fair to say you expressed that anger to your husband over the past two and a half years?

A. Yes, I have.

Q. Now, Mrs. Tucker, how long have you been involved in the anti-gangsta rap crusade?

A. Well, I became involved with it in 1993, September, when—

MR. ANGINO: That's enough. That's the answer.

MR. WILLIAMS: That's fine.

BY MR. WILLIAMS:

Q. And can you tell me, have you experienced any stress or anger as a result of dealing with the record companies in the industry?

A. Of course, yes.

Q. And you've experienced—has it been a lot of stress and anger that you've experienced during the past five years in dealing with the record companies in the industry?

A. Yes; yes.

Q. And during the past five years, have you expressed distress and anger to your husband?

A. He shares everything I do.

Q. So is the answer yes?

A. The answer is yes.

Q. Okay. Now, Mrs. Tucker, in June of 1997, were you aware that your husband had an appointment with Dr. Mignott?

A. I'm not sure of the date.

Q. Well, it's fair to say that Dr. Mignott is your husband's primary physician; is that correct?

A. He's mine, too.

Q. And how long has he been your husband's primary physician?

A. I don't know.

Q. Has it been—

A. He's been going to him.

Q.—more than ten years?

A. Well, I guess he's been our doctor for about at least five or six, maybe more.

Q. And you've been going to him for about ...

number of newspaper publications that carried these allegedly false allegations that were made against you for the mid-1970's?

A. What's that again?

Q. Since 19—since you started the anti-gangsta rap crusade—

A. Yes.

Q.—there have been a number of newspaper publications that have printed these allegations that were made against you back in the mid-1970's, correct?

A. Yes.

Q. Okay. And these allegations are

false, correct?

A. That's correct.

Q. Why haven't you sued any of these newspaper publications since 1993 when you started the anti-gangsta rap crusade?

A. Why? Because I didn't walk around the streets and have children pointing at me and say there's C. DeLores Tucker, an MFer, there's a C. DeLores Tucker that needs to keep her legs closed. They didn't ridicule me and send that message all around the world by gangstas in the suites I call them.

Q. Mrs. Tucker—

A. Gangstas in the suites—

MR. ANGINO: She is answering your question.

THE WITNESS:—that's why. I have never been so ridiculed. That case here in Harrisburg took place in this State, and the children weren't looking at me and ridiculing me and laughing at me, and me having to fear my life. That suit, I didn't have to look to see if a car is coming by with dark windows that might shoot at me. I didn't have to turn around when I walked in my building and see if somebody is following me. I didn't have the Palladino Boys coming after me and going around to my neighbors, going around to my staff, sitting in front of their homes. I didn't have them going to my Jewish organizations, and they throwing them out. I didn't have them going to the Congress trying to find something about me. I didn't have them walking around the streets going to all the bars trying to find out whether my husband had a girlfriend. I didn't have death threats on me. That's the reason I filed this suit, to stop it.

BY MR. WILLIAMS:

Q. Got you.

You're very angry and—and stressed about this, aren't you?

A. No. My life was threatened. And they are teaching our children to even kill me, telling—telling the gangsta rappers that I had the FBI files in the suite that Suge Knight asked to meet me in. And I called Janet Reno and said you better find out how you got your FBI files, because that was to tell those kids to kill me.

Q. Mrs. Tucker—

A. And even brought them up to one of the hearings and put Suge Knight in front of me. And the Palladino Boys sitting right in there. The Palladino Boys that Michael Jackson uses, that Delerio uses, that everybody else uses, following me and going to my staffs' homes. That's why I filed the suit.

Q. Right. You're obviously very upset and—

A. You would be too—

Q. You're obviously—

A.—if you have to walk around and wonder if somebody is going to shoot you, when that's the culture of these gangstas in the suites.

Q.—you're obviously very upset and angry about—

A. I don't need to talk to you. You don't know what it's all about until you get into it yourself.

Q. You are obviously very upset and angry—

A. You would too, if your life was threatened.

Q. I have to ask the question. I'm doing my job, okay. It's not personal. I have to ask the question. Do you—

A. And I don't have to answer.

MR. ANGINO: Yes, you do. And let—let him—please calm down. Do you want to take a recess? Yeah, I want a recess.

MR. ANGINO: Let's take a recess.

THE VIDEOTAPE TECHNICIAN: We're off the video record at 10:36.

(Recess.) ...

world, okay. And Time—Time, Inc., Time Magazine is a part of the family of Time Warner. That's why.

Q. Thank you.

Now, Mrs. Tucker, have you ever been diagnosed as having any stress related ailments that have lasted longer—longer than a year?

A. I didn't even know I had stress until an incident that happened in the hospital, my recent hospital visit. I felt—you know.

Q. And when you—when you referred to your recent hospital visit, are you talking about the hospital visit that you had at the University of Pennsylvania Hospital from July 29th, '97 through August 4th, 1997?

A. Well, I didn't really know, as I said, how much stress I really had. I had fear and all of that—

Q. I don't mean to cut you off, but you didn't answer the last question.

MR. WILLIAMS: Can you read the last question back to her, please?

(The court reporter read back the last question.)

THE WITNESS: What was the dates

again?

THE COURT REPORTER: July 29th, '97 through August 4th, '97.

THE WITNESS: I never thought I was stressed. I'm pretty strong—

MR. WILLIAMS: No; no.

THE WITNESS: What's the question? What's the question again?

MR. WILLIAMS: Read the question, please. Read the question back, because I think it's pretty clear.

(The court reporter read back the previous question.)

THE WITNESS: Yes.

BY MR. WILLIAMS:

Q. And that hospital visit was due to stress that you were experiencing as a result of your dealings with the record companies and the lyrics that Tupac Shakur had published; is that correct?

MR. DAVID: Object to the form.

THE WITNESS: I don't know what it was related to, to be very honest with you, because it was an accumulation of a lot of things going on. I had just come back from— ...

Q. And you have no reason to dispute the truthfulness and accuracy of this medical report prepared by Dr. Mignott; is that correct?

A. That's correct.

Q. Okay. Now, let's just go through it.

Do you remember visiting Dr. Mignott on July 9th, 1997?

A. If it says here I did, these records would be true, yes.

Q. And that was approximately 20 days prior to your admission in the hospital on July 29th, 1997; is that correct?

A. That's correct. That's correct.

Q. Now, let's look at the first sentence. "Presents for followup and main issues are tremendous amount of stress she is under lately."

Do you see that?

A. Yes.

Q. Okay. How long prior to July 9th, 1997 had you been under stress?

A. Well, first of all, I don't like the word stress. But I had reported to him before about a tingling in my—seems like sometimes my nerves—I don't know what they are, but the finer—what do you call the finer things of your—like your electric something, you know, it seems like a current going through my—my body. I had reported that to him, I guess about a year ago.

Q. A year prior to July 9th, 1997?

A. I'm not sure, but I've been reporting that to him about the—the tension in my—in my—that's the only thing I've really noticed because I—in my talk—

Q. Now, let's just make sure—

A. —my speech.

Q. —let's just make sure of something.

You just used the term a year. Are you talking about a year prior to July 9th, 1997?

MR. ANGINO: That's what she said, approximately.

BY MR. WILLIAMS:

Q. Is that what you're saying?

A. It's—it's been a while since I've been feeling that. I don't call it stress, but I call it—there's a—which I'm feeling now.

MR. ANGINO: His question is though, the year, just the year. It was about a year.

BY MR. WILLIAMS:

Q. Prior to July 9th, 1997, you had been experiencing it and reported it to Dr. Mignott?

A. It might have been—it might have been a—it's at least a—more—at least a year. At least a year.

Q. Okay. Were you aware on July 9th, 1997—withdrawn.

Were you aware when you visited Dr. Mignott on this date that your husband had alerted Dr. Mignott to the fact that you were very stressed and currently in a very hyper state where you had sleep disturbance, loss of weight and was generally—were generally jittery? Were you aware that your husband had reported that to Dr. Mignott? Look at the second sentence.

A. Yes, I see it there. And I guess he would, because he's aware of my problem. He could notice it after all these years, my reactions to staff and other people. He could see it clearer than I could, you see. Other people are telling me, you know, that you—you're losing weight. I don't see that, but they tell me that. And they tell me I need to get rest, but I don't think I need it.

Q. Let's look at this—

A. This has been a lot of pressure on me here all of these years. 1993, I've been involved with this.

Q. Now, let's look at the third sentence. It says "She reports she is stressed because of current proceeding through her work and that she is harassed and somewhat fearful for her life."

What I want to ask you about that sentence is, what were you referring to when you said—what was meant when it said "because of current proceeding through her work."

A. I really don't—just what it says. I don't—I can't explain it. It's just that...

Q. What did you tell the doctor about what was going on with your work at that time, July 9th?

A. My husband.

MR. ANGINO: Her husband is the one relating that.

MR. WILLIAMS: No; no; no. I think we got—maybe I'm—

MR. ANGINO: Okay. I see. You're ...

MR. ANGINO: Starting with presents for follow-up?

MR. WILLIAMS: Right. The whole page. It's about a half a page in length.

MR. ANGINO: That's it, just that page.

BY MR. WILLIAMS:

Q. Just that page. Okay. Have you read it?

A. Yes.

Q. Now, do you see in the middle of the first paragraph where it says "She was also found to be very stressed and had symptoms of stress"? It says—

A. I'm looking—oh, yes, I have it. I see.

Q. Do you see that sentence?

A. Yes.

Q. And that's referring to your condition during your hospital visit about three weeks earlier; is that correct?

A. This is August 21st. Yes, I imagine that's the sequence, yes.

Q. And do you see under Impression, it ...

hear my exact wording.

(The court reporter read back the last question and answer.)

THE WITNESS: I can answer the question.

MR. WILLIAMS: Let me—let me—there is really no question. Let me make sure the record is clear.

BY MR. WILLIAMS:

Q. Did you and your husband file suit against record companies and distributors in July—on July 21st, 1997?

A. We filed a suit.

MR. ANGINO: Yes.

THE WITNESS: Yes; yes.

BY MR. WILLIAMS:

Q. Okay. And when was the first time that you and your husband discussed the issue of filing suit against the record companies and distributors?

A. I don't recall when, but I know as soon as I heard that Tupac named me in that scurrilous way, and people were calling me about it, I knew then I was going to file the suit. I didn't know how or when, but I was going to file it.

Q. So is it fair to say that you just first discussed filing suit against the record companies and distributors back in the winter of 1996?

A. I don't know when the song came out. That's when I knew I was going to file the suit against Tupac.

Q. I think it came out February—I think we stipulated February of '96.

A. '96. Well, when I first heard that he had filed that, that he had—that song had been distributed around the world, I was going to file suit against him. Not so much him, but the gangstas in the suites that distributed and paid him to do it.

Q. Now, do you remember your first discussion with your husband concerning this filing the suits against the gangsters—

A. I discuss everything with—we just talk, and I act.

Q. Yeah. But you didn't let me finish the question.

A. It doesn't matter.

Q. Do you remember—do you remember the substance of the first conversation that you had with your husband?

A. No, I don't.

Q. Can you recall any conversation you had with your husband during the year and a half prior to the filing of the lawsuit?

A. At dinner every night I talk about this. Every night.

Q. Let's limit it to the time frame, Mrs. Tucker.

A. Well, that's every night.

Q. Okay. Every night.

A. Every night I'm talking about this—this whole matter.

Q. Every night?

A. And morning.

Q. So every night prior—during the year and a half before you actually filed the suit, you talked about it with your husband?

A. Every day.

Q. Okay. Now, when was the first time that either you or your husband consulted with someone else about filing the lawsuit against the record companies and distributors?

A. We had a meeting with our lawyer in ...

Dr. C. DeLores Tucker

"BIOGRAPHICAL SKETCH"

Dr. C. DeLores Tucker, former Secretary of State, Commonwealth of Pennsylvania (1971-1977), is the convening founder and currently serves as the Chair of the National Political Congress of Black Women, Inc. having succeeded the Hon. Shirley Chisholm in 1992. She is the President of the Bethune DuBois Fund, Inc. which she founded in 1991. Dr. Tucker also launched and serves as publisher of the historical publication, "Vital Issues: The Journal of African-American Speeches."
She was formerly the Chair of the Democratic National Committee Black Caucus and is the founding President of the Martin Luther King Jr. Association for Non-Violent Change, the first and only Association in the U.S. to be commissioned by Mrs. Coretta Scott King. Dr. Tucker was the first African-American to serve as President of the National Federation of Democratic Women.

Dr. Tucker recently was selected by *People* Magazine as one of " 25 of the World's Most Intriguing People". She was also featured in the inaugural issue of John F. Kennedy Jr.'s *George* Magazine for her crusade against gangsta/porno rap. She was also selected as a "People Magazine 1996 Yearbook Honoree." Dr. Tucker is a member of the NAACP SCF Board of Trustees. She also serves on the Board of Trustees of Lincoln University in Pennsylvania, the Delaware Valley College, and the Commonwealth Medical College of Pennsylvania.

Dr. Tucker was the first African American woman in the nation to serve as Secretary of State. During that time, she instituted the first Commission on the Status of Women in Pennsylvania and was responsible for the Governor's appointment of more women and minorities to Boards and Commissions and more women judges in the history of the Commonwealth of Pennsylvania. She also led the effort to make Pennsylvania one of the first states to pass the Equal Rights Amendment.

As a member of the Democratic National Committee, Dr. Tucker organized a woman's caucus and served on a Charter Commission to ensure that all women had a fair share representation at all levels of the Democratic Party.

Dr. Tucker's civic and political activities include her participation with Dr. Martin Luther King, Jr. in the march from Selma to Montgomery in 1965. She was also a delegate to the historic White House Conference on Civil Rights.

Among more than the 300 awards and honors received by Dr. Tucker are the Philadelphia Urban League Whitney Young Award (1990), NAACP Thurgood Marshall Award (1982), The NAACP Freedom Fund Award and EBONY Magazine's "100 Most Influential Black Americans" (1972-77), Ladies Home Journal Nominee for Woman of the Year (1975, 1976), the B'nai B'rith Community Service Award, and the Martin Luther King, Jr. Distinguished Service Award from Mrs. Coretta Scott King, founder of the Martin Luther King, Jr. Center for Nonviolence in Atlanta, Georgia. She was also named by the National Women's Political Caucus and *Redbook* Magazine as the woman best qualified to be Ambassador to the United Nations.

She is the wife of William Tucker and the daughter of the late Reverend Whitfield and Mrs. Captilda Nottage.

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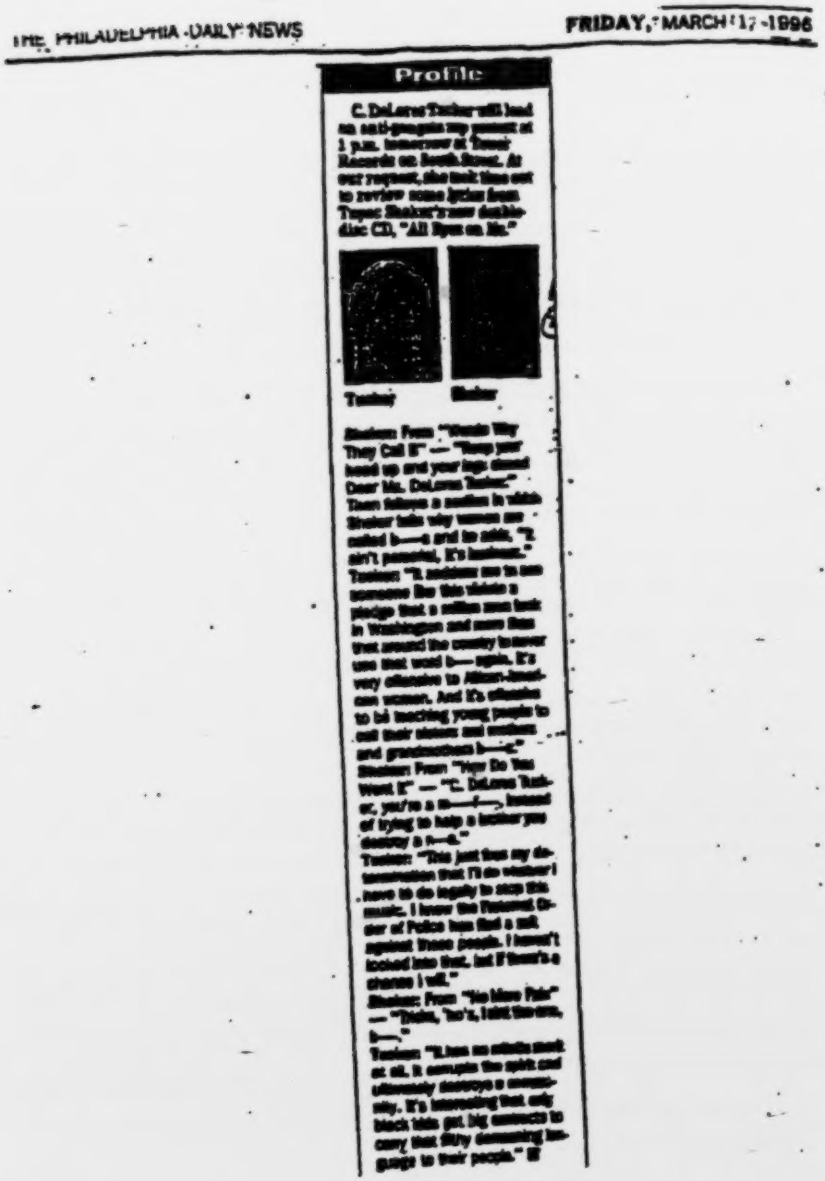

THE PHILADELPHIA DAILY NEWS FRIDAY, MARCH 15, 1996

Profile

C. DeLores Tucker will lead an anti-gangsta rap protest at 1 p.m. tomorrow at Tower Records on South Street. At our request, she took time out to review some lyrics from Tupac Shakur's new double-disc CD, "All Eyez on Me."

Tucker

Shakur

Shakur: From "Wonda Why They Call U" — "Keep your head up and your legs closed Dear Ms. DeLores Tucker." Then follows a section in which Shakur tells why women are called b—s and he adds, "I ain't paranoid, it's business."

Tucker: "It saddens me to see someone like this violate a pledge that a million men took in Washington and more than that around the country to never use that word b— again. It's very offensive to African-American women. And it's offensive to be teaching young people to call their sisters and mothers and grandmothers b—s."

Shakur: From "How Do You Want It" — "C. DeLores Tucker, you're a m—f—, instead of trying to help a brother you destroy a n—a."

Tucker: "This just fuels my determination that I'll do whatever I have to do legally to stop this music. I know the Fraternal Order of Police has filed a suit against these people. I haven't looked into that, but if there's a chance I will."

Shakur: From "No More Pain" — "Tricks, ho's, I aint fav'rin b—."

Tucker: "It has no artistic merit at all. It corrupts the spirit and ultimately destroys a community. It's interesting that only black kids get big contracts to carry that filthy demeaning language to their people." ■